

DELAWARE DOG CONTROL PANEL

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Hearing taken before Pamela C. Herrmann,
(formerly Pamela C. Washington), Registered
Professional Reporter and Notary Public, at Sussex
County Council Chambers, The Circle, Georgetown,
Delaware, on May 12, 2014, beginning at 7:00 p.m.

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APPEARANCES:

On behalf of the Dog ControlPanel:

- ANNE CAVANAUGH, Chairperson
- BETTY JANNUZZIO
- CRAIG STONESIFER
- TARA LAUSCH

On behalf of Delaware Animal Care & Control:

- CAPTAIN SHERRI WARBURTON
- STAFF SERGEANT DAVID HULSE

On behalf of Faithful Friends:

- Young, Conaway, Stargatt & Taylor
- ATTN: CURTIS J. CROWTHER, ESQ.

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1 CHAIRPERSON CAVANAUGH: Okay, it's
2 7:00 o'clock, you want to get started everyone? This
3 is the Delaware Dog Control Panel. My name is Anne
4 Cavanaugh, and I'm the Chairperson for tonight. I'll
5 ask the other Panel members to introduce themselves.

6 MS. JANNUZZIO: Betty Jean Jannuzzio, I
7 represent the Delaware SPCA.

8 DR. STONESIFER: Craig Stonesifer, I'm
9 a veterinarian for the Brenford Animal Hospital.

10 CHAIRPERSON CAVANAUGH: I'm going to
11 read the proceedings and what we're hoping to
12 accomplish, and then we'll get started.

13 Delaware Dog Control Panel deals with
14 the Dangerous and Potentially Dangerous Dogs law.
15 Delaware Code Title 9, Chapter 9, Subchapter II,
16 Subsection 925(a) states that a dog who has inflicted
17 physical injury upon a human or domestic animal,
18 killed a human or domestic animal, pursued a person in
19 an apparent attitude of attack, and/or who was used to
20 facilitate animal cruelty or animal fighting is in
21 violation of this Code and must be seized and
22 impounded by Delaware Animal Care and Control until
23 determination as to whether the dog's actions were
24 dangerous or potentially dangerous.

25 The owner of such an impounded dog may

1 abide by the findings and conclusions of Animal Care
2 and Control as per Subsection 925 of this code. If
3 the owner disagrees with the conclusion, he or she may
4 request a hearing before the Dog Control Panel to
5 present evidence as to why the actions of the dog for
6 which it was seized should not be considered dangerous
7 or potentially dangerous as defined by the Code.

8 All hearings shall be informal, open to
9 the public, and need not conform to standard rules of
10 evidence. Hearsay evidence shall be allowed but may
11 not be relied upon as the sole evidence in the Panel's
12 determination.

13 This hearing is not a community
14 meeting. There will be no public comment, and you
15 will be asked to leave if you disrupt the proceedings.
16 This hearing will open with instructions and brief
17 statements from each party, noting what they intend to
18 establish. For example, we're going to establish the
19 dog is dangerous, potentially dangerous, or not
20 dangerous. They also should state the number of
21 witnesses and amount of time they expect to need for
22 their presentation.

23 The members of the Delaware Dog Control
24 Panel will hear evidence and testimony concerning the
25 incident that caused the dog to be seized in

1 accordance with Delaware law. The Panel may exclude
2 any evidence which is plainly irrelevant, immaterial,
3 cumulative or unduly repetitive.

4 Each witness will clearly state and
5 spell if requested their full name for the record and
6 be sworn in prior to testimony. Following opening
7 statements, each party shall produce witnesses and
8 evidence on their own behalf, and have the opportunity
9 to cross-examine witnesses. The Panel may examine the
10 witness after testimony, cross-examination, and
11 reserve the right to recall a witness to answer
12 additional questions or clarify testimony.

13 After brief closing statements from
14 both parties, deliberations of the Panel will be
15 conducted in executive session. At that time, the
16 Panel will determine based upon the preponderance of
17 evidence and testimony provided during the hearing
18 whether the dog's actions for which it was seized
19 meets the level of public hazard as defined by
20 Delaware law.

21 After returning, the Panel shall
22 announce its decision by reading the conclusion into
23 record. After this reading, the owner will then be
24 provided with a copy of the written notice. The
25 decision of the Panel is final.

1 MR. CROWTHER: May I be heard, Madam
2 Chairman?

3 CHAIRPERSON CAVANAUGH: I'm sorry?

4 MR. CROWTHER: May I be heard for a
5 moment?

6 CHAIRPERSON CAVANAUGH: Usually we
7 start with opening statements from Animal Control.

8 MR. CROWTHER: I don't believe there's
9 a quorum here that's proper under the code. Miss
10 Jannuzzio is your alternate; there's not three
11 separate representatives from three divisible groups
12 on the dog panel.

13 CHAIRPERSON CAVANAUGH: I don't believe
14 that's necessary.

15 MR. CROWTHER: There has to be three
16 for a quorum of the five. Miss Jannuzzio is your
17 alternative. If you weren't here, she could be here,
18 but you're here and that means this system is not with
19 the five -- or three separate representatives.

20 CHAIRPERSON CAVANAUGH: I don't believe
21 that's necessary. I believe that any of the members
22 of the Panel, as long as there are three, can hold a
23 hearing.

24 MR. CROWTHER: I ask that the record be
25 noted that I objected to the quorum, that it does not

1 exist and this meeting is invalid.

2 CHAIRPERSON CAVANAUGH: Okay, so now we
3 have opening statements by Animal Control.

4 CAPTAIN WARBURTON: Good evening, Panel
5 members, ladies and gentlemen. Tonight we're going to
6 talk about a series of unfortunate and tragic events.
7 What I mean by unfortunate events are when Tacia
8 McIlvaine called Delaware Animal Care and Control to
9 report two elderly homeless women who had three dogs
10 in the back of a pickup truck at a motel. Unfortunate
11 that the responding officer attempting to locate them
12 was unsuccessful, however Tacia McIlvaine was and she
13 took responsibility of Ricky and Lady Jane. You'll
14 then hear how Tacia McIlvaine contacted Kathy Hughes,
15 asking her to keep Ricky and Lady Jane for one
16 evening, and how that one evening turned into four
17 weeks.

18 You will hear from Kathy Hughes and
19 Cindy Myers that when they took the two dogs over to
20 Lisa St. Clair's place for evaluation, there was a
21 miscommunication, and how she was not prepared for
22 their arrival as she was outside with her dogs. Her
23 senior lab, Daisy, who is deaf, did not hear her call
24 to come inside. Kathy Hughes will tell you that Ricky
25 launched himself from her SUV and, with no hesitation

1 in an apparent attitude of attack, and latched onto
2 Daisy's neck.

3 You will hear from Lisa St. Clair how
4 she grabbed Ricky's collar, pulling him away and
5 tightening his collar, restricting his air while her
6 dog was screaming. You will hear from Kathy Hughes
7 that she attempted numerous times after the attack to
8 contact Tacia McIlvaine, leaving her messages about
9 the attack and how she can no longer keep the pair.

10 Finally, Hughes puts Ricky and Lady
11 Jane in Tacia McIlvaine's shed with bedding, food, and
12 water because she could no longer care for them. A
13 series of unfortunate events indeed.

14 Flash forward to March 18th, a cool
15 spring day, a woman is gingerly taking her small furry
16 white dog out of her vehicle. Little Banks, who has
17 Lyme's disease, is particular about who grooms him,
18 and Todd Clyde is so gentle that she drives from
19 Maryland to Delaware to have him groom her dog. You
20 see her walking Banks toward the salon where she walks
21 past a younger man who is taking a black and white
22 pitbull with tan markings past her. You see her and
23 Banks moving forward when a white and black blur
24 speeds towards the woman and her dog. The woman looks
25 down as her dog screams in pain as the bigger dog

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1 My name is Captain Sherri Warburton,
2 and together with my co-counsel, Field Sergeant David
3 Hulse, it's our honor to stand here before you
4 representing Delaware Animal Care and Control on
5 behalf of Banks and Daisy.

6 The testimony you will hear tonight
7 will prove Ricky, a black and white with tan markings
8 American pitbull terrier, is a dangerous animal and
9 should be deemed dangerous in accord with Delaware
10 Title 9, Chapter 9, Subsection 2. Delaware Animal
11 Care and Control requests about 90 minutes to call up
12 to eight witnesses. Thank you.

13 CHAIRPERSON CAVANAUGH: Thank you.

14 MR. CROWTHER: What you're going to
15 find when you hear the testimony is what they didn't
16 tell you, what they won't tell you on their direct.
17 But when they're crossed, you're going find out this
18 information seems to all have come about after
19 March 18th. That these so-called witnesses made
20 contrary statements before March 18th. Why? You ask.
21 Why would they do that?

22 Well, that's because this case started
23 back when First State Animal Control was called, and
24 they didn't report. They were called because two
25 animals were suffering in the back of a pickup truck

1 in cages covered by a tarp with no food. They didn't
2 show up. They were called again. Well, the person
3 who had the original report isn't here, they'll get
4 back to you later. But they don't.

5 So someone goes and does their job for
6 them, and what do they do after that? They complained
7 to Animal Control about not doing their jobs.

8 Suddenly, on March 18th, focus is on that person.

9 Now, my client is Faithful Friends. My client did not
10 get involved at all until after February of 2014

11 because they were asked if they could take these dogs;
12 they had no space at the time, but they were building
13 new space. And they said well, when we have space
14 available, when our construction is complete, we'll
15 let you know.

16 Well, the time came, and the space
17 became available, and Faithful Friends said you can
18 bring them here. And they arrived on March 18th, on
19 the same day and after the incident involving Banks.
20 What you will actually hear about what happened will
21 not remotely sound like what Sergeant Warburton
22 described.

23 CAPTAIN WARBURTON: Captain.

24 MR. CROWTHER: Sorry. It won't sound
25 remotely like that. So when you're sitting here

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1 listening to testimony, wait until you find out what
2 they didn't say to other people, wait until you find
3 out what they did say that's completely inconsistent,
4 and then ask yourselves is this really about trying to
5 get back at one individual, going through a dog?
6 Because that's what it really is.

7 CHAIRPERSON CAVANAUGH: Hetti?

8 HETTI BROWN: Madame Chair, I'm sorry,
9 I know this is out of order. But we do have an
10 additional Panel member here tonight because of some
11 of the concerns of the defendant; if you'd like to
12 call that Panel member. I don't know if you want to
13 speak to her first or convene off to the side.

14 CHAIRPERSON CAVANAUGH: That would be
15 good, yeah. Excuse us for one second.

16 (Whereupon, a short recess was taken.)

17 CHAIRPERSON CAVANAUGH: So we have a
18 new Panelist, this is Tara Lausch. Tara is an animal
19 behaviorist, she was part of the group of people that
20 volunteered to be on the Panel. And Betty will remain
21 but she will not vote. Does that --

22 MR. CROWTHER: I need to ask for
23 Miss Lausch to be recused. Part of my case will
24 involve a group that she is a member of, Delaware
25 Animal Advocacy Guild.

1 MS. LAUSCH: I am not a member of that
2 group.

3 MR. CROWTHER: My understanding is that
4 she has an affiliation with that group.

5 CHAIRPERSON CAVANAUGH: My
6 understanding is that she says she does not.

7 MR. CROWTHER: She says she's not a
8 member; she didn't answer the question whether she was
9 affiliated with that group.

10 MS. LAUSCH: I am friends with people
11 that are in that group, but I'm not a member of that
12 group.

13 MR. CROWTHER: Are any of those people
14 in the room today?

15 CHAIRPERSON CAVANAUGH: Is that
16 relevant? It's not relevant.

17 MR. CROWTHER: Are they going to be
18 witnesses?

19 CHAIRPERSON CAVANAUGH: I do not know.
20 I'm just trying to get this Panel going.

21 MR. CROWTHER: Well, I need to preserve
22 my client's rights, and that involves determining
23 whether or not a member should be recused, especially
24 when the member's added after the meeting is already
25 convened.

1 CHAIRPERSON CAVANAUGH: As you know,
2 this is the first time this Panel has met in some
3 time. We are not attorneys, we are volunteers who
4 were asked to be here as members of the community to
5 try and make a decision about a dog. It would really
6 be helpful if we could proceed.

7 MR. CROWTHER: Are any of the people
8 that she's affiliated with going to testify?

9 CHAIRPERSON CAVANAUGH: I do not know.

10 MR. CROWTHER: Does she have an
11 obligation to say if she knows them when they are
12 called if she has an affiliation?

13 CHAIRPERSON CAVANAUGH: I suppose she
14 does. But if she knows them, does that mean she has
15 to be recused, just because she knows them? I mean
16 we're talking about Delaware. I mean I know --

17 MR. CROWTHER: Knowing someone is
18 different from having a close affiliation with them
19 and working with them in things they do with respect
20 to a group.

21 CHAIRPERSON CAVANAUGH: So if she knows
22 them, she does haven't to recuse herself?

23 MR. CROWTHER: No, if she merely knows
24 them.

25 CHAIRPERSON CAVANAUGH: Because if

1 that's the case, I need to recuse myself.

2 MR. CROWTHER: Absolutely right,
3 because you don't have a close working relationship
4 with that person or something that's going to happen
5 here where you have to establish whether or not you're
6 impartial, that's all we're asking. I don't know who
7 she knows in this group, I just know of her
8 affiliation with the group.

9 CAPTAIN WARBURTON: I call to the stand
10 Staff Sergeant Palacio.

11
12 WHEREUPON:

13 MARY PALACIO,
14 having first been duly sworn by the court reporter,
15 thereupon testified upon her oath as follows:

16 BY CAPTAIN WARBURTON:

17 Q Staff Sergeant Palacio, how long have
18 you been with Delaware Animal Care and Control?

19 A Eight years.

20 Q And do you have any animal experience
21 prior to working with Delaware Animal Care and
22 Control?

23 A Yes, I was a vet tech at Rehoboth
24 Animal Hospital for two years.

25 Q Okay. Coming to the incident that

1 we're here for, on 4/10 you received a complaint about
2 two dogs that belong to a rescue that may have been
3 involved in some dog attacks; could you expand on
4 that?

5 A Yes. I was notified by the director
6 that we had an anonymous email that there was a
7 possible aggressive dog that may be going to be
8 adopted into the community, and the dog was now at
9 Faithful Friends and they would like us to investigate
10 an incident that happened at Mrs. St. Clair's house
11 with a dog that was attacked there.

12 Q This is Plaintiff's Exhibit 1. Through
13 your investigation, is this the dog identified in the
14 attacks?

15 A Yes, that's Ricky.

16 Q Okay. And Ricky is a?

17 A He's a male. He's neutered now, he
18 wasn't neutered at the time, I don't believe, American
19 pitbull terrier.

20 CAPTAIN WARBURTON: Okay, I'd like to
21 enter this into evidence Plaintiff's Exhibit 1.

22 (Plaintiff's Exhibit 1, marked for
23 identification.)

24 BY CAPTAIN WARBURTON:

25 Q Okay, so you had contacted Savannah

1 Animal Hospital; did they have any information on the
2 dog attack?

3 A No. That was one of the pieces of
4 information we were given, is that the dog that was
5 under the attack may have been taken there for
6 treatment. I consulted with them, and it was not
7 taken there. They would not give me the information
8 for the owner, but they did contact Mrs. St. Clair for
9 me, and she did call me and we had a conversation as
10 to what happened on that attack.

11 Q And just quickly, what was the
12 conversation?

13 A That Kathy Hughes had come to her house
14 with two pitbulls, they were going to try to do like a
15 meet and greet to see if the pitbulls could be engaged
16 for their -- you know, to be adopted, to see if they
17 could get along with other animals. And there was an
18 attack that happened on her elderly dog, Daisy was
19 attacked by Ricky.

20 Q Plaintiff's Exhibit 2 is another size
21 of Ricky, did you take this picture?

22 A Yes, I did.

23 CAPTAIN WARBURTON: And that was
24 Plaintiff's Exhibit 2.

25 (Exhibit 2, marked for identification.)

1 BY CAPTAIN WARBURTON:

2 Q So after speaking with Kathy Hughes,
3 did you go to her residence?

4 A Mrs. St. Clair?

5 Q I'm sorry, yes, after speaking with
6 Miss St. Clair --

7 A Yes.

8 Q -- did you go to her residence?

9 A Yes, I did go to her residence.

10 Q Okay. And can you explain what this
11 picture is?

12 A Yes, that's her driveway right outside
13 her home, and that's where the location of the attack
14 took place.

15 CAPTAIN WARBURTON: Okay, this is
16 Plaintiff's Exhibit 5.

17 (Exhibit 5, marked for identification.)

18 BY CAPTAIN WARBURTON:

19 Q And can you explain quickly, did you
20 take this picture?

21 A Yes, I did.

22 Q Okay, and can you explain the details
23 of the --

24 A Well, that's Mrs. St. Clair right
25 there. Actually, that is her other dog right there,

1 approximately in the same location that Daisy would
2 have been. The van is parked where the SUV was that
3 had the two pitbulls in it.

4 Q Okay, and the dogs were inside of the
5 SUV?

6 A Yes, yes.

7 Q Okay, thank you. And you took this
8 picture when you were at Miss St. Clair's?

9 A Yes.

10 Q And this is just basically a wider
11 view --

12 A Yes.

13 Q -- of the area?

14 A When they arrived, actually Mrs. --
15 Mrs. St. Clair has invisible fence so her dogs stay
16 out, and they can only go so far to the driveway. And
17 Daisy was laying out in the front yard by the porch.
18 She doesn't hear and she doesn't see well so they have
19 to use hand gestures to bring her in, so she was
20 unaware of the dogs in the van at the time.

21 Q So at the time of the attack, it sounds
22 like Daisy was not being tethered or restrained by her
23 owner?

24 A No, no, because --

25 Q Is that against the law in Sussex

1 County?

2 A No, because she's restrained by the
3 invisible fence.

4 Q Okay.

5 A That's her restraint.

6 CAPTAIN WARBURTON: And that was
7 Plaintiff's Exhibit 7.

8 (Exhibit 7, marked for identification.
9 BY CAPTAIN WARBURTON:

10 Q And Plaintiff's Exhibit 8, whose leg is
11 that?

12 A That's Mrs. St. Clair's leg.

13 Q And did you take this picture?

14 A Yes, I did.

15 Q And what's the picture of?

16 MR. CROWTHER: Objection. The picture
17 is what the picture is.

18 BY CAPTAIN WARBURTON:

19 Q Is it a picture of her leg?

20 A Yes, it's a picture of her leg.

21 Q And is she pointing to scars?

22 A Yes, there's puncture wounds that she
23 was bitten during the attack with Ricky and Lady Jane
24 and her dog, Daisy.

25 CAPTAIN WARBURTON: Okay, that's

1 Plaintiff's Exhibit 8.

2 (Exhibit 8, marked for identification.)

3 BY CAPTAIN WARBURTON:

4 Q When you met with Miss St. Clair, did
5 you take a written statement from her?

6 A Yes, I did.

7 Q Is this her statement?

8 A Yes, it is.

9 Q And is that your signature at the
10 bottom?

11 A Yes, it is.

12 CAPTAIN WARBURTON: Okay, I'd like to
13 enter this into evidence.

14 BY CAPTAIN WARBURTON:

15 Q After speaking with Miss St. Clair, did
16 she provide the vet where she took Daisy to?

17 A Yes, she took Daisy to Nonantum Vet
18 Clinic, it's in Langburg, Pennsylvania, that's where
19 Daisy has gone pretty much all her life. Being an
20 older dog, you know, she's been taking her there so
21 she felt it was best to take her back to the vet that
22 knew her for treatment.

23 Q And is this the fax you received from
24 Nonantum Vet Clinic?

25 A Yes, I contacted them and they faxed

1 that to me.

2 Q Okay. This is in the Panel's packet
3 and on there is a date of 12/4.

4 A Uh-huh.

5 Q Does that coincide with what you
6 learned about the dog attack --

7 A Yes.

8 Q -- on that date? After speaking with
9 Miss St. Clair, did you also speak with anybody else
10 who witnessed the attack?

11 A Yeah. I had -- she had given me
12 information of two ladies that had brought the two
13 pitbulls to the residence, it was Kathy Hughes and
14 Cindy Myers. So I contacted them and was able to meet
15 with both of them, get statements from them and
16 information.

17 Q So you met with them physically to
18 obtain their statements?

19 A At their residence, yes, I did.

20 Q And with Miss Hughes, did she tell you
21 what happened during the attack?

22 A Yeah. She -- she actually was a little
23 bit shocked at the way Ricky responded to the dogs
24 because, with her, he was great. And he can be great
25 with people, but not with other dogs.

1 Q Okay.

2 A Not always. And she was -- she
3 expressed to me the concern she had about how he just
4 goes off, and she wasn't prepared for that when she
5 took him there. And I'm sure she wouldn't have if she
6 thought that. But she expressed that how aggressive
7 he was and how he was -- would not let go of the dog.

8 Q And did you get a statement from her?

9 A Yes, I did.

10 Q Okay. Along with -- let me see this --
11 Miss St. Clair and --

12 A Cindy Myers.

13 Q -- yes, Cindy Myers, did you meet with
14 Cindy Myers as well?

15 A Yes, I did.

16 Q Did Cindy Myers -- you took a statement
17 from her, and did anything stick out at you when you
18 took her statement?

19 A Yeah, she is a retired veterinarian
20 from the State of Maryland, and she knows dogs pretty
21 well, she's been around dogs a while. And she
22 expressed to me that she really felt that this was
23 truly an aggressive dog that was very unpredictable,
24 and she encouraged Miss Hughes to not keep him at her
25 home any more because of the liability she would

1 assume by doing so. That is why she tried so hard to
2 get ahold of Miss McIlvaine to return the dog; she did
3 not want that responsibility.

4 Q And these are the two statements that
5 you took from the two women?

6 A Yes.

7 Q Are these your signatures at the
8 bottom?

9 A Yes. Yes, they are.

10 Q Okay, thank you.

11 CAPTAIN WARBURTON: We have two
12 separate incidences of attacks, and if the Panel is
13 okay, I would rather just deal with this one instead
14 of recall Staff Sergeant Palacio for the second
15 incident.

16 CHAIRPERSON CAVANAUGH: Okay.

17 CAPTAIN WARBURTON: Okay.

18 CHAIRPERSON CAVANAUGH: Do you have
19 questions?

20 MR. CROWTHER: Yes.

21 BY MR. CROWTHER:

22 Q Is Palacio your married name?

23 A Yes.

24 Q Your maiden name was Genetti?

25 A Yes, it was.

1 Q And you were the animal control officer
2 that was originally called to report to pick up a --

3 A No, I was not. I was not.

4 Q You never spoke with Miss McIlvaine?

5 A I spoke with her on the phone, I took
6 her complaint, but I was not the responding officer.

7 Q Would it surprise you if your office
8 said that you were, and that you were not available to
9 follow up later, would that surprise you?

10 A Yes, it would.

11 Q Thank you.

12 A Because they would have it on the
13 computer.

14 MR. CROWTHER: Thank you.

15 CHAIRPERSON CAVANAUGH: Questions from
16 the Panel?

17 (No response.)

18 CHAIRPERSON CAVANAUGH: You are
19 excused.

20 THE WITNESS: Thank you.

21 CAPTAIN WARBURTON: Delaware Animal
22 Control would like to call Lisa St. Clair.

1 WHEREUPON:

2 LISA MARIE ST. CLAIR,
3 having first been duly sworn by the court reporter,
4 thereupon testified upon her oath as follows:

5 BY MR. HULSE:

6 Q Miss St. Clair, you just gave me some
7 pictures; what are they?

8 A This was Daisy when she was feeling
9 better. And then this is Daisy after -- about two
10 months after the attack, right before she passed away.

11 Q So this is before the attack?

12 A Yes.

13 Q And this was after?

14 A This was after.

15 Q On December 4th, were you aware of the
16 dog Ricky coming to be shown?

17 A I didn't -- there was a
18 miscommunication, we had discussed the possibility of
19 doing a meet and greet because she didn't know if they
20 were good with other dogs, and she didn't know if they
21 were good with cats, and she was trying to find homes
22 for them. And I said well, I have a pack of six dogs
23 and they're great with other animals, and that if she
24 ever wanted to arrange a time where we could go not on
25 my property but to like have them meet on leash and

1 stuff like that. But they arrived unexpectedly around
2 4:00 o'clock in the afternoon.

3 Q Is Daisy normally one of the dogs that
4 you have with the meet and greet?

5 A No, I would never, she's too old, in
6 case something could happen. She's super mellow, but
7 I would never take a chance.

8 Q Are your other dogs around Daisy?

9 A Yeah, they're always around her.

10 Q Has she ever shown aggression towards
11 other dogs?

12 A No. She didn't even have teeth. She
13 was a rescue that she didn't have teeth, she ...

14 Q How old was Daisy?

15 A At the time, 12. 12 years old.

16 Q Can you tell us exactly what took place
17 that day?

18 A Around 4:00 o'clock, Kathy Hughes
19 arrived at my property and she was just all of a
20 sudden on my porch. And I live like back off the road
21 on five-and-a-half acres, I don't get unexpected
22 guests. And --

23 Q Were you inside or outside when she
24 arrived?

25 A I was inside. And my dogs, half of

1 them were inside, half of them were outside, the
2 younger ones were running around. I have an under-
3 ground fence in my front area all the way around my
4 property, and then I have an enclosed fenced yard as
5 well.

6 So they typically go out the front door
7 and greet people when someone arrives at my door. And
8 Kathy was there, and I was like, "Kathy, what are you
9 doing?" And she was like, "I thought this would be a
10 good time to have Ricky and Lady Jane meet your dogs."
11 And I was like, "This is a bad time." I was still
12 working, I worked from home at the time.

13 And now I look out and there's two dogs
14 going ballistic in the car, they're not leashed,
15 they're not caged, they're just in the car. And Cindy
16 Myers was in the car, and she was looking overwhelmed,
17 and she like got out of the car. And I was like,
18 "Don't get out of the car, I have loose dogs right
19 now, let me get my dogs in the house."

20 So I got my -- like four of my dogs in
21 the house, but Daisy and Oscar were still out. And
22 Daisy -- Daisy had gone out the front door, and she
23 can't hear when she's walking away. So she goes, "Oh,
24 there's a truck down the driveway," so she goes
25 waddling down to say hi, and she was going around the

1 back of the truck.

2 And Kathy had opened the back, and I
3 was screaming -- I had screamed at her not to open the
4 truck. And she opened the back to get their leashes,
5 I guess. And at the time, Ricky just dove out of the
6 truck and locked onto Daisy's face. And he had her
7 totally -- he had her skin here, but he had her
8 totally here, and he had his whole mouth was around
9 her head she couldn't even open her mouth.

10 And I grabbed ahold of his choke
11 collar, but it wasn't -- it wasn't on choke, so I was
12 just holding him up as high as I could. And she was
13 screaming, like this sound like you would think a
14 human being would make, it wasn't a dog sound at all,
15 it was just terror. And Cindy Myers tried to help me
16 like bash his face in, and we were doing everything, I
17 was -- I was choking him out, I was trying to kill
18 that dog.

19 Q Were you using an object to bash his
20 face in?

21 A No, my hand; I couldn't let go. But I
22 was telling her to go grab a rock, I was saying grab a
23 rock, to grab something. And then right around
24 then -- it seemed like it went on forever and ever.
25 And all of a sudden, Lady Jane jumped out of the car,

1 because that's right when Daisy just stopped making
2 any noise, and then I was freaking out because I
3 thought she was dead, like, or either she was dying or
4 she was dead.

5 And Lady Jane jumped out of the car,
6 and my leg was between -- I was here, and Lady Jane
7 just started malling my leg; from here to here, I was
8 black and blue for three months.

9 And then one of the other dogs -- the
10 dog that was out, all he did was keep barking about
11 it. And one of the other dogs came out, and I think
12 he must have bit Ricky from behind on his butt or
13 something and startled him. And I think between that
14 and me -- I had the collar completely wrapped by that
15 point, and he couldn't have been getting any air, but
16 he wasn't stopping until right then, and then he let
17 go.

18 And I had so much adrenaline in me, I
19 just threw him up into the car. I shoved Kathy Hughes
20 in the back of the car with him, I didn't care if he
21 ate her, I just wanted him off my property. So I shut
22 the door and told them get off my property.

23 Q You described Daisy, what she was doing
24 and how she was acting; how was Ricky acting at that
25 point and any noises he may have been making?

1 A He didn't make a noise when he -- he
2 just launched himself and was just trying to kill her.
3 He was just -- he was intent on killing my dog, and I
4 was intent on trying to kill him.

5 Q So he was not making any noise or
6 anything at that point in time?

7 A No. He was just -- it was awful.
8 MR. HULSE: Okay, I have no further
9 questions.

10 BY MR. CROWTHER:

11 Q You care a lot about your dogs, right,
12 Miss St. Clair?

13 A I do.

14 Q You talk about them on the internet a
15 lot?

16 A I posted when she passed away.

17 Q But you talk about dogs in your life
18 and what happens to them on the internet, right?

19 A Well, I own a dog bakery, so on one of
20 my Facebook pages, I do post pictures of when dogs are
21 eating my dog treats and --

22 Q It's not a trick question, I'm just
23 asking, you talk about your dogs on the internet?

24 A Yeah.

25 Q It's okay, it's not a bad question,

1 it's okay, I mean you love your dogs. And I know that
2 Daisy died on February 12th, correct?

3 A Yes.

4 Q Do you recognize that document?

5 A Yes.

6 Q That's your post, right?

7 A Yes.

8 Q And that's talking, February 22nd of
9 this year, talking about Daisy and that you lost two
10 of your family members within -- well, within a couple
11 of days of each other in February of 2014. Daisy's
12 death, what was it caused by, what did she have?

13 A Daisy was an older dog, so she was -- I
14 gave her fluids once a week for kidney failure, she
15 was in kidney failure but she was fine. I mean she
16 had arthritis, and just all old dog things. But after
17 the attack, she just changed. I mean she was so in
18 shock that day and she just -- it was like something
19 just changed in her.

20 Q How long prior to December had you been
21 giving your dog fluids because of kidney problems?

22 A It had just started not -- it's
23 probably in my vet records, but not that long, hadn't
24 been that long. But after that, it increased in the
25 amount that I had to give it to her, it started being

1 daily.

2 Q And it's possible her kidney failure
3 just got worse, right?

4 A Yes.

5 Q She wasn't bit on the kidneys, right?

6 A No.

7 MR. CROWTHER: Faithful Friends 1.

8 (Faithful Friends Exhibit 1, marked for
9 identification.)

10 BY MR. CROWTHER:

11 Q Do you recognize this, Miss St. Clair?

12 A Yes.

13 Q That's your post?

14 A Yes.

15 Q And this is from December 5th and
16 December 2nd, correct?

17 A I guess.

18 Q Take a look at it, go ahead.
19 December 5th and December 2nd, 2013, right? There's
20 no mention of any injury to your dog between
21 December 2nd and December 5th, is there?

22 A No, I did not -- I purposely did not
23 mention anything about that.

24 MR. CROWTHER: Faithful Friends 2.

25 (Faithful Friends Exhibit 2, marked for

1 identification.)

2 MR. CROWTHER: No further questions.

3 MR. HULSE: May I ask her a few more
4 questions?

5 CHAIRPERSON CAVANAUGH: Yes.

6 BY MR. HULSE:

7 Q What was Daisy's behavior like before
8 the attack?

9 A She was like an old dog, but she was
10 the pack leader, she was the mommy of everybody so she
11 was a really -- just a mellow old lady.

12 Q Did she have any different behavior
13 starting the day after the attack?

14 A She had different behavior from the
15 minute it happened. She was very -- in a lot of pain
16 that week or so following.

17 Q Did she have injuries from the attack?

18 A She had puncture wounds, and she had to
19 be on antibiotics.

20 Q All right. And have you ever posted
21 any injuries to any of your animals on the internet
22 before?

23 A No. I never had anything like that.

24 MR. HULSE: No further questions.

25 CHAIRPERSON CAVANAUGH: Any questions

1 from --

2 MR. CROWTHER: I have follow-up.

3 BY MR. CROWTHER:

4 Q You do post about your animals, don't
5 you, Miss St. Clair? That's a March 21st posting
6 about a disease your German Shepherd had because
7 you're seeking funding for that disease, right?

8 A I wasn't seeking any funding.

9 Q That's not you?

10 CHAIRPERSON CAVANAUGH: I'm not sure
11 exactly what --

12 MR. HULSE: That's not an injury,
13 that's a disease.

14 CHAIRPERSON CAVANAUGH: I'm not sure
15 exactly what the relevance of this is to this case.

16 MR. CROWTHER: Oh, it will become
17 crystal clear, I ask for some indulgence.

18 THE WITNESS: This is not my dog. My
19 dog had just passed away from that same disease. So I
20 read about this dog, and they had a go-fund-me, so I
21 donated money to their go-fund-me account. And if you
22 read the post, it says, "This is one of the diseases
23 my German Shepherd was suffering from, that and EPI.
24 Please help these people keep their dog and treat
25 their dog."

1 BY MR. CROWTHER:

2 Q You posted your dog had these diseases
3 and you were trying to get some help for them, right,
4 and this disease?

5 A I was not posting that, sir. I posted
6 information --

7 MR. CROWTHER: No further questions.

8 THE WITNESS: Am I allowed to continue
9 or no?

10 CHAIRPERSON CAVANAUGH: If you want to
11 answer the question, go ahead.

12 THE WITNESS: All that I did was
13 educate people about a disease that's -- predominantly
14 German Shepherds get, and my dog had suddenly passed
15 away from a horrible disease. And then I read about
16 this family that was not going to be able to afford
17 the treatment.

18 CHAIRPERSON CAVANAUGH: I understand.

19 THE WITNESS: And so I gave money to
20 them, and then I just reposted it.

21 CHAIRPERSON CAVANAUGH: Are there any
22 questions from the Panel?

23 (No response.)

24 CHAIRPERSON CAVANAUGH: You are
25 excused, thank you.

1 MR. HULSE: I call Miss Myers, Cynthia
2 Myers.

3 WHEREUPON:

4 CYNTHIA LEE MYERS,
5 having first been duly sworn by the court reporter,
6 thereupon testified upon her oath as follows:

7 BY MR. HULSE:

8 Q Miss Myers, going back to
9 December 4th --

10 A Yes.

11 Q -- what were you doing that day?

12 A Okay, I was under the misunderstanding
13 that Kathy and Lisa had arranged for a meet and greet
14 with their dogs.

15 Q Who communicated that to you?

16 A I can't remember. We were at a little
17 dinner the night before, and I said I would help if
18 they wanted -- you know, because I'm a retired
19 veterinarian, I thought I would see some subtle signs
20 of something if there was a meet and greet where it
21 was a controlled environment, that I could maybe help
22 them assess if there could be any future problems.

23 And other than that, I was out of the
24 decision to go there. And I was under the
25 understanding that it was all prearranged. All the

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1 details -- I was not involved in any of the details.
2 So with that in mind, I went.

3 Originally, we were going to go in
4 Kathy's car which was a Pilot, and mine's a High
5 Lander and I was -- she asked me to change cars at the
6 last minute and asked me to drive. So I ended up
7 driving, even though that wasn't the original plan.
8 So she got directions to where Lisa lived, and we
9 ended up going to her house. And I guess it was
10 around 4:00 o'clock.

11 Q You say you have experience with
12 animals, what kind of experience do you have?

13 A I'm a veterinarian.

14 Q For how many years?

15 A I practiced for 15 years.

16 Q And I guess you were left in the
17 vehicle alone with the dogs?

18 A Yes. What happened was we arrived and
19 Lisa wasn't outside. And I thought because it was
20 prearranged, she would be outside, so I said to Kathy,
21 please call. And Kathy said, "No, I'll go up and
22 knock on the door."

23 So Lisa answers the door, and her dogs
24 come pouring out the door. And Lady Jane and Ricky
25 are in the back of the car, and both of them come up

1 to -- up to the front, they're charging to the front
2 of my car. And I'm getting a little freaked out
3 already because I want this to stop right now, because
4 what has happened is they're acting -- especially
5 Ricky was actually like getting over into the --
6 actually to the glass of the front door of the car,
7 and I was concerned for my safety.

8 So I was trying to signal to Kathy to
9 get back in the car. And I got out I think at one
10 point, I really can't even remember the sequence, but
11 I think I got out and I think Lisa said to get back
12 in. Kathy got in.

13 And then Lisa went back in the house,
14 and then came back out, and I don't remember if Daisy
15 was with her at that point. And before we could stop
16 her, Kathy opened the hatch of the car, and we were
17 both screaming no. And Ricky just dashed out the car,
18 and apparently Daisy was there. Lisa and I rushed and
19 pinned him to the back bumper of my car and Lisa --

20 Q Before you go any further, you said he
21 was acting very mean and everything in the car and you
22 were scared for your life?

23 A I wasn't scared for my life, I was just
24 worried about like if there was any -- I had never
25 seen him -- I have seen him three times including that

1 day, all brief periods, and he seemed fine. I never
2 saw any sign of aggression with him whatsoever, and
3 this was the first time he was acting aggressive. It
4 wasn't a tail wag, it wasn't excitement; it was, you
5 know, he saw dogs.

6 Q So he was acting very aggressive at
7 that point?

8 A He was acting aggressive. And I was
9 just worried for myself at that point.

10 Q Can you describe what aggressive
11 behavior would be like?

12 A He was going back and forth in the car.
13 And, you know, I was worried he was going to start
14 stepping on me. He's a big dog, and I'm small, and I
15 was -- and he was looking at the dogs that were with
16 her, and it wasn't like a nice -- I can't describe it.

17 Q Did he have hair standing up on his
18 body?

19 A No, I didn't see anything like that
20 but --

21 Q Was he growling, was he --

22 A He wasn't growling at all, and he never
23 growled the entire time. He never barked, he never
24 growled, nothing. That was the spooky part of this,
25 he was completely silent during the attack, during

1 everything.

2 Q Okay. So back to where the hatch was
3 opened, he jumped out, and then you jumped out of the
4 car as well?

5 A I was out already at that point, and
6 had screamed no, don't let him out. And Lisa and I
7 pinned him to the back bumper. And Lisa had the front
8 near his head, and I was at -- sort of at his abdomen
9 and his rib cage area. And she was trying -- and
10 Daisy was just -- this horrible screaming was going on
11 and on, and we couldn't -- we couldn't dislodge him.

12 Lisa was doing everything up front, I
13 was actually literally with my hiking boots kicking
14 him in ribs, I was pounding on his head. And Lisa had
15 asked me to go get something to hit him on the head,
16 and I know that that doesn't work with pitbulls.

17 And I also was very concerned at this
18 point for her safety as well as mine, and I thought if
19 we could pin him there, at least have him pinned.
20 Because this was so out of the ordinary for any
21 behavior I had seen before, I actually in my mind was
22 concerned that we could all be in a blood bath and
23 nobody would know it. Because we were in the woods;
24 there were dogs out, we were in the woods, there's
25 nobody around, and I was concerned for our safety as

1 well.

2 Q You have a statement that you wrote?

3 A Yes.

4 Q Is this your signature on that?

5 A Yep, uh-huh.

6 Q Did you recommend anything after the
7 meet and greet?

8 A Well, after it was all over with, and
9 the dog was in the car, I raced back to Kathy's house
10 and pretty much said he needs to be euthanized and he
11 needs to be not at your property anymore because of
12 liability and risk to other dogs in her neighborhood.

13 I know that she had told me she had
14 been walking him every day in her neighborhood, which
15 has a lot of dogs, and it was just by the grace of God
16 that nobody -- this had not happened yet, because he
17 is strong, and she would not have been able to control
18 him.

19 Q As a veterinarian, animals undergoing
20 treatment, liver issues or anything like that, if they
21 were attacked, is that a great possibility of possibly
22 hurting that animal even further?

23 A Absolutely, it decreases their immune
24 system, just common sense. You know, not even as a
25 veterinarian, just common sense, you know, it's going

1 to impact.

2 MR. HULSE: I have no further
3 questions.

4 BY MR. CROWTHER:

5 Q It sounds like Kathy misled you about
6 the entire thing on December 4th, didn't she?

7 A She did, but it really has no bearing
8 on the behavior of the dog, because whether she misled
9 me or not, that dog was going to attack another dog.

10 Q And sounds --

11 A And it did.

12 Q It sounds like Kathy was a little bit
13 reckless in letting the dogs out of the truck when in
14 fact everyone was telling her not to, right?

15 A Yeah.

16 Q You'd agree with that, right?

17 A Yeah.

18 Q So you never actually examined Daisy,
19 did you, as a vet?

20 A Nope.

21 Q You never reviewed her medical records,
22 did you, as a vet?

23 A Nope.

24 Q So basically you just threw out some
25 opinion on something you never actually saw or read?

1 A What are you talking about?

2 Q The last question to you about the
3 injury that would be sustained if she was already
4 sick; you didn't see --

5 A No, he asked me a general question
6 about immunity.

7 Q But you don't know anything about
8 Daisy, right?

9 A No, I don't, but I do know medicine, I
10 do veterinarian medicine.

11 Q You don't know Daisy's injuries?

12 A I don't know Daisy as a particular dog,
13 but I do know about her wellness and I know about
14 immunity.

15 Q So you were simply saying generally
16 this could be a problem, does that summarize it?

17 A Yep.

18 Q Okay. Did you once ask that a dog be
19 euthanized because it knocked you over?

20 A Huh?

21 Q Did you once ask that a dog be
22 euthanized because it knocked you over?

23 A Oh, yeah, yeah. That was a dog,
24 Corkie, yes.

25 Q Thank you.

1 A And it wasn't euthanized, I didn't ask
2 that it be --

3 MR. CROWTHER: That's all the questions
4 I have, ma'am.

5 DR. STONESIFER: You can finish your
6 statement if you like.

7 THE WITNESS: I don't remember asking
8 that it be euthanized. It knocked me over and I said
9 that it needs to be under a very controlled -- I asked
10 that it be evaluated for behavioral issues.

11 BY CHAIRPERSON CAVANAUGH:

12 Q When you were in the car with the
13 dogs --

14 A Which has nothing to do with this.

15 Q -- did this agitated behavior start
16 when the other dogs came out of the house, I assume?

17 A Yes.

18 Q So once they saw the other dogs is when
19 they started --

20 A As a matter of fact, on the way over to
21 the house, Lady Jane, the mother dog, and he were
22 actually playing in the back of the car. He was very
23 relaxed.

24 CHAIRPERSON CAVANAUGH: Any other
25 questions from the Panel?

1 BY MS. JANNUZZIO:

2 Q You said the other dog or the mother
3 dog? Were these two dogs related, Lady Jane and --

4 A Yes, she was the mother dog and he was
5 the son.

6 Q Okay.

7 A Now, that's per what I heard from Kathy
8 what she heard from Tacia.

9 MS. JANNUZZIO: Okay.

10 CHAIRPERSON CAVANAUGH: Thank you.

11 THE WITNESS: You're welcome.

12 MR. HULSE: Dog Control would like to
13 call Kathy Hughes.

14 WHEREUPON:

15 KATHY HUGHES,
16 having first been duly sworn by the court reporter,
17 thereupon testified upon her oath as follows:

18 BY MR. HULSE:

19 Q Kathy, December 4th.

20 A Yes.

21 Q Do you recall that day?

22 A I certainly do.

23 Q Okay. Did you make prior arrangements
24 to meeting there?

25 A I did. I'd just like to make a short

1 statement about that. There were -- they say there
2 were no prior arrangements; there were. I don't even
3 go to my neighbor's house without calling first. We
4 were supposed to be there at 4:00 o'clock. In fact, I
5 have a text where Cindy says, you know, something
6 about 3:30 picking them up and so forth.

7 But the reality of the situation is
8 whether there was a prearrangement or not, there are
9 certain facts that occurred. So the fact is is that
10 those dogs were supposed to be at my house for one
11 night. I was told -- Tacia McIlvaine called me up --

12 CHAIRPERSON CAVANAUGH: Can I interrupt
13 for one minute?

14 THE WITNESS: Yes.

15 CHAIRPERSON CAVANAUGH: It's all very
16 interesting, and I know there's a lot of background
17 here, but we have a lot of material to get through.
18 So I'm sorry, but we really need to stay focused on
19 this incident that happened, and all the other
20 miscommunication is really not involved.

21 THE WITNESS: Right, and that's why I
22 don't want to go into who shot John, it's absolutely
23 irrelevant at this point.

24 CHAIRPERSON CAVANAUGH: It's
25 irrelevant. So we need to know what happened with the

1 dogs.

2 BY MR. HULSE:

3 Q So again, your right there, how were
4 the dogs' behaviors?

5 A They were fine, you know, until we got
6 there.

7 Q How long have you been around animals?
8 Do you have any kind of certifications or anything
9 with dealing with animals?

10 A I have no certification. I have always
11 had animals. And after I retired from the Federal
12 Government, I worked at Annapolis Animal Hospital for
13 six years. I'm just currently not in a technical
14 position, although I am certainly involved with the
15 animals. And I am now employed part time at Rehoboth,
16 also not in a technical.

17 I'm also the transport coordinator for
18 the English Cocker Spaniel Club of America the rescue.
19 I have had minimal dealings with pitbulls; the ones
20 that I knew in Annapolis were very friendly. I have
21 never experienced anything like this before.

22 Q Okay. And prior to this, the dogs had
23 never shown any sign of aggression or anything with
24 each other?

25 A No.

1 Q Okay. And after you had gotten out of
2 the vehicle and you apparently knocked on the door --

3 A Right.

4 Q -- everybody has said so far, you went
5 back to the vehicle; why did you open up the hatch?

6 A Well, what had happened, and again as
7 Cindy said, it was a horror show, and everything is so
8 mixed up that, you know, to be absolutely precise
9 about what happened I think is impossible.

10 But I knocked on the door, hi, how are
11 you and all this kind of stuff. And I was introduced
12 by Lisa to her dogs, and we thought they were going
13 back in. And I got back into the car and one of the
14 little dogs was there, and I quickly shut the door.

15 And so I don't remember what happened
16 next but, anyway, in any event, I got outside of the
17 SUV again. I was under the impression that all the
18 dogs had gotten in, they were called a second time.
19 And in the meantime, I was in the back of the SUV so I
20 didn't see any of the dogs.

21 And Cindy was screaming, you know, get
22 these dogs away, whatever. And the leashes were in
23 the back. So the two dogs were at the front of the
24 SUV, and I opened the hatch that went up a small
25 amount to -- and I got rushed. I guess Ricky

1 obviously heard the door being -- and I mean he
2 barreled, the two of them, but I caught Lady Jane
3 before she went out.

4 Q Is there a middle seat in this second?

5 A It was flat. It was flat with the --
6 yeah.

7 Q But they were completely in the front
8 seat of the vehicle?

9 A They were -- I don't know if they were
10 actually in the front seat; they were --

11 Q Toward the front?

12 A Toward the front, yeah. They were way
13 in the front; I don't know if they were sitting on the
14 seat or not. And they were barking, and I had no
15 idea, really, and this could be reckless, stupid, call
16 it whatever you want. But I had no idea they were
17 carrying on because of the dogs, because I didn't know
18 the dogs were there.

19 Q Did you try to keep the hatch down once
20 you saw him barreling at you?

21 A Oh, my God, yeah.

22 Q And you were not able to put the hatch
23 back down?

24 A No. I mean he went right through me.

25 Q All right. And during the attack, did

1 you hear Ricky make any kind of noises?

2 A No.

3 Q Fur standing up?

4 A No. I didn't notice any.

5 Q Didn't notice any. Did you notice any
6 injuries to the lab, Daisy, after the attack?

7 A He had his teeth inside of her face,
8 and it was the most horrific thing I have ever seen in
9 my life. And he just -- and I was trying to open his
10 teeth; impossible. And they were doing exactly what
11 they were saying. And she just stood there and she
12 was in total shock. And I couldn't get him.

13 And then Lady Jane, I had her on the
14 leash, and I was thinking about Daisy. And then Lady
15 Jane -- and Lisa said get her out of here. So I don't
16 know how I did it, but I threw her back in.

17 Q What do you think would have happened
18 to Daisy if you three weren't there at that time?

19 A Oh, dead, I'm sure.

20 Q And why did you get rid of the dogs?

21 A I had asked Tacia several times before,
22 one day turning into four weeks. And she said oh, no,
23 can't do it, can't do it, can't do it. As you can
24 tell, I mean this is a long time later, I came home,
25 and thank God my husband was there, because the only

1 thought was to get rid of these dogs. I have a 15-
2 year-old English Cocker at home, and I was keeping
3 them all separate, and God forbid something happen to
4 him like it did to Daisy.

5 Q So you got rid of them due to the fact
6 that you had another dog at home, a senior dog, and
7 you were scared something would go wrong?

8 A Oh, my God, yeah.

9 Q Okay. How long did it take you to get
10 rid of the dogs?

11 A As soon as I got home, I ran in and I
12 said to my husband, "You've got to get rid of them."
13 And I called Tacia, and she didn't answer, wouldn't
14 answer her phone. And I told her what happened, and I
15 said I'm bringing them over.

16 Q You said you told her what happened, I
17 think you said you left a message telling her what
18 happened?

19 A I left a message. And we put a crate
20 in the car, and I put the two of them in with food,
21 water, everything, bedding. And I tried to get ahold
22 of her another time, and then I texted her -- I have a
23 horrible headache -- I texted her, telling her. She
24 wasn't home and we put them in the shed.

25 And we felt terrible, quite frankly,

1 both of us, because to people, they were so loving and
2 so sweet, but obviously that doesn't include other
3 dogs.

4 Q All right. You have filled out a
5 statement form --

6 A Yes, I did.

7 Q -- for Officer Palacio? Is that your
8 signature at the bottom?

9 A Yes.

10 MR. HULSE: I have no other questions.

11 BY MR. CROWTHER:

12 Q Your Cocker Spaniel, is that Simon?

13 A Yes.

14 Q He's 15?

15 A Yes.

16 Q He was in the same yard with Ricky,
17 wasn't he?

18 A There was one time where -- we have a
19 doggie door, and Simon can't see and he can't hear.
20 He was 14 when this happened, he was 15 in January.
21 And at this point when I was giving him -- Lady Jane
22 was in season, which complicated and -- and anyway, I
23 opened the back gate and took them in there, you know,
24 to get some exercise.

25 Q It's a very simple question. They were

1 in the same yard together, right?

2 A It's a simple question, but it's a
3 misleading question if you're going someplace to say
4 well, everything was fine and ducky. The reason it
5 was fine and ducky is because Ricky was all the way
6 around the corner, okay? And Lady Jane happened to
7 see Simon, and he's going like -- because he can't see
8 a thing. And Lady Jane starts humping Simon, and I
9 grabbed him and threw him through the doggie door and
10 got him the hell out of there because I was afraid of
11 what would happen. So Ricky was totally unaware of
12 Simon.

13 Q So they were in the same yard?

14 A They could have been in the same
15 country, yes.

16 Q Nothing happened?

17 A Nothing happened because Ricky did not
18 see Simon. I don't know what would have happened, but
19 I can pretty much guess that he wouldn't be around.

20 Q On December 1st, you sent the following
21 email to Tacia.

22 A Yes.

23 Q "It will be three weeks tomorrow that
24 the homeless kids are here. It's been very difficult
25 to handle logistically, and while we love them, they

1 can't continue to stay here. I think you need to
2 figure out a plan as soon as possible. Ed has been
3 asking when they will be leaving. He loves them, too,
4 but we can't make them members of the family with
5 Simon." Right?

6 A Right.

7 Q So you loved the dogs?

8 A Yeah, I said with people, they were
9 great. And we did love them, and I think this is a
10 tragedy.

11 Q On December 3rd, you sent an email to
12 Al Mollica at Delaware SPCA. And you say, "The
13 homeless people called her sometime later and she
14 tried ac again and no help. She then called me to see
15 if I could house them for one night," you capitalized
16 that.

17 A Yeah, because that's one night, not
18 four weeks.

19 Q "Well, one night turned into more than
20 three weeks. Ownership of Lady Jane and Ricky was
21 transferred to Tacia. We had them vetted and they are
22 now up to date on vacs, heart worm tested, et cetera.
23 We have tried to find someone to adopt or foster and
24 no luck. They are great dogs, 11 year old female, 7
25 year old male pitbull mixes. They are well mannered

1 and very loving."

2 A With people.

3 Q That's what you wrote, right?

4 A That's my experience; with people. I
5 had no experience with these dogs with other dogs.

6 MR. CROWTHER: Numbers 4 and 5.

7 (Faithful Friends Exhibits 4 and 5,
8 marked for identification.)

9 BY MR. CROWTHER:

10 Q Now, your statement said that you fed
11 the dogs and gave them water before you left them in
12 the shed, doesn't it?

13 A No. What it says -- I don't know -- I
14 can tell you what happened, I don't have the statement
15 in front of me. We brought food, we brought a water
16 bucket which I filled up at Tacia's house, we had
17 bedding that we gave them, and made sure that they
18 were warm. It was a mild night, they were perfectly
19 wonderful.

20 Q On December 2nd, Tacia sent you a text
21 message that said, "Kathy, I am on the phone calling
22 all rescues within a 100 mile radius. Please stop
23 calling and leaving voice messages, I don't check
24 them." December 2nd, 2013, she said it right in this,
25 correct?

1 A Yeah, so?

2 Q And your next text message to her was,
3 "I left you two messages. LJ and Ricky are in your
4 shed. They have water but have not been fed yet."

5 A Right. That we sent the food with
6 them.

7 Q Where is any message, because Tacia's
8 already told you she doesn't check her messages, where
9 is the text message that says they had any involvement
10 in any dog attack?

11 A There was no text message.

12 Q Where is the email that says, because
13 you're certainly prolific at emailing, where is the
14 email that says they were involved in any dog attacks?

15 A You know what? I'm prolific at telling
16 the truth, too. And the fact of the matter is that I
17 was hysterical after this happened, and I called her
18 on the phone and I told her what had happened, that I
19 could not possibly have them in my home anymore. And
20 Tacia carries her cell phone around like it's attached
21 to her body, and she refused to answer the calls.

22 CHAIRPERSON CAVANAUGH: Again, I really
23 don't see the relevance here of what happened with
24 Facebook, et cetera, and text messages.

25 THE WITNESS: Thank you.

1 CHAIRPERSON CAVANAUGH: We're here to
2 talk about the dogs' behavior --

3 THE WITNESS: And the fact that they
4 attacked.

5 CHAIRPERSON CAVANAUGH: -- not the
6 people's behavior.

7 MR. CROWTHER: The voracity of the
8 witnesses testifying is very important. The absence
9 of any mention of an attack is very telling.

10 CHAIRPERSON CAVANAUGH: I think we have
11 heard several other witnesses that witnessed the
12 attack.

13 THE WITNESS: And I have, under
14 perjury, stated that I called Tacia and left a message
15 telling her about the attack.

16 CHAIRPERSON CAVANAUGH: And that's
17 great, and it's irrelevant to what we're talking about
18 now.

19 BY MR. CROWTHER:

20 Q And that's your posting on March 18th
21 about Lady Jane and Ricky, too, correct?

22 A Correct.

23 Q It doesn't describe any dog attack,
24 does it?

25 A If you want to hand it back to me and

1 I'll be able to answer your question --

2 CHAIRPERSON CAVANAUGH: No, it's not
3 relevant.

4 THE WITNESS: -- or you don't want any
5 answers?

6 MR. CROWTHER: No further questions.

7 THE WITNESS: Yeah, thank you.

8 CHAIRPERSON CAVANAUGH: Excuse me,
9 Kathy. Does anyone from the Panel have a question
10 that's relevant to the attack of the dog on the other
11 dogs?

12 BY MR. HULSE:

13 Q I have one quick question. Did Daisy
14 show any sign of aggression --

15 A None.

16 Q -- before, prior to the attack?

17 A Before, after, anything, none; she's a
18 sweet, gentle dog. Thank you.

19 CHAIRPERSON CAVANAUGH: You can step
20 down.

21 THE WITNESS: Thank you.

22 CAPTAIN WARBURTON: I ask to re-call
23 Staff Sergeant Palacio.

1 WHEREUPON:

2 MARY PALACIO,
3 having previously been duly sworn by the court
4 reporter, thereupon testified upon her oath as
5 follows:

6 BY CAPTAIN WARBURTON:

7 Q Staff Sergeant, on 3/18 when you were
8 doing your research, did you find an incident in
9 regards to a dog attack?

10 A Yes. There had been a dog-on-dog
11 attack and it was phoned in by the dog owner, Paula
12 Purcell, and evidently it involved Ricky when he was
13 staying at Delmarva Pet Resort.

14 Q Okay. Were there any case notes in the
15 case?

16 A Yes, there was.

17 Q And what did they say?

18 A Sergeant Jester had gone out and spoke
19 to -- he's the owner of Delmarva Pet Resort, and he
20 was asked what happened. And it was the day that
21 Tacia McIlvaine and a gentleman friend of hers had
22 arrived to remove the dogs. Ricky broke loose and
23 there was an incident between him and another dog.

24 Q So after discovering this, did you
25 contact Todd Clyde?

1 A Yes, I did.

2 Q And in speaking with him, did he also
3 give you victim information?

4 A Yes, he did.

5 Q Okay. So after speaking with him, did
6 you contact Miss Purcell?

7 A Yes, I did.

8 Q And what was your conversation with
9 her?

10 A She was explaining to me that her Lhasa
11 Apso named Banks has lyme disease, and he's real funny
12 about how he gets groomed or when he gets groomed;
13 he's very achy and has a lot of issues. So the only
14 person that seems to be able to groom him and do well
15 with him is Mr. Clyde, so she does take him there,
16 traveling to Maryland to groom him.

17 Q And did she describe what happened
18 while at Delmarva Pet Resort on 3/18?

19 A Yeah. When she arrived with Banks to
20 be groomed, she noticed a gentleman coming out of the
21 building with Ricky, the black and white pitbull. She
22 saw him proceed up the driveway with the pitbull, so
23 she put Banks on his leash and they were going in.
24 And she told me she just was not ever aware, just all
25 of a sudden he was there and had Banks by the neck and

1 was shaking him. And she started screaming, and
2 Mr. Clyde came out and assisted her in trying to get
3 Ricky off the dog.

4 Q And did she take the dog to a vet for
5 treatment?

6 A Yes. Actually, Mr. Clyde did, once
7 they got Ricky off, he brought Banks inside the
8 building and tried to wash him off. And when he saw
9 the wound severity, he started calling around, and the
10 only veterinarian that could see him right away was in
11 Ocean City, so they took Banks over there immediately.

12 Q And did she send you pictures?

13 A Yes. Actually when I spoke to her,
14 they had met -- her whole family, actually her
15 daughter and husband and everything had been there at
16 the vet's, and they did take pictures and I did
17 acquire the pictures from them.

18 Q Plaintiff's Exhibit Number 11, can you
19 describe what this is?

20 A They're trying to show I believe that
21 there's hemorrhaging in the eye. You can see the
22 blood vessels are broken.

23 Q And this dog is Banks?

24 A Yeah, that's Banks.

25 (Plaintiff's Exhibits 11 and 12, marked

1 for identification.)

2 BY CAPTAIN WARBURTON:

3 Q This is Plaintiff's Exhibit Number 12,
4 the same view. As a vet tech, is that injury
5 something that he would just get from a little bite or
6 is that --

7 A No, no. A lot of times when -- I have
8 seen it with hit-by-car dogs, even when they have
9 pressure or a blow to the head or anything like that,
10 their eyes will -- you're a vet so you know -- but
11 they can get bleeding in the eye, the blood vessels
12 get broke. I'm not sure even if he may have had, you
13 know, teeth in the eye, I don't know.

14 Q And this is still Banks in the picture
15 that you received --

16 A Yes.

17 Q -- Plaintiff's Exhibit 13?

18 A Yes.

19 (Plaintiff's Exhibit 13, marked for
20 identification.)

21 BY CAPTAIN WARBURTON:

22 Q Plaintiff's Exhibit 14, can you
23 describe what this is?

24 A Yeah, that's the neck wound that he
25 sustained.

1 Q And would you call that just a physical
2 injury or would that be a severe physical injury?

3 A That's definitely a severe injury and,
4 from what I understand, it was rather deep.

5 Q And why would you call it a severe?

6 A It required two surgeries and a drain;
7 they couldn't close it because of how deep it was and
8 infection could set in.

9 CAPTAIN WARBURTON: Okay, that's
10 Exhibit 14.

11 (Plaintiff's Exhibit 14, marked for
12 identification.)

13 DR. STONESIFER: Can you pass 13
14 around? The copy we have is black and white.

15 CAPTAIN WARBURTON: Sure. Would the
16 Panel just like these?

17 DR. STONESIFER: I just want to see the
18 ones of the eyes. Thank you.

19 BY CAPTAIN WARBURTON:

20 Q And Plaintiff's Exhibit 15; same
21 injury, just a different view?

22 A Yes, yes. Where they actually have it
23 opened up and you can see how deep it goes.

24 MR. HULSE: Would you like that one as
25 well?

1 DR. STONESIFER: I don't need those.

2 (Plaintiff's Exhibit 15, marked for
3 identification.)

4 BY CAPTAIN WARBURTON:

5 Q After speaking with Miss Purcell, did
6 you go down actually to Delmarva Pet Resort?

7 A Yes, I did.

8 Q And did you take these pictures?

9 A Yes, I did, of the location.

10 Q And can you describe what this picture
11 is?

12 A That is the parking lot outside the
13 building. Where the ACV is parked right there is
14 actually where Miss Purcell was parked.

15 CAPTAIN WARBURTON: And that's
16 Plaintiff's Exhibit 16.

17 (Plaintiff's Exhibit 16, marked for
18 identification.)

19 BY CAPTAIN WARBURTON:

20 Q Plaintiff's Exhibit Number 17, can you
21 describe the person in the picture?

22 A Yeah, that's Mr. Clyde, he's the owner
23 of the kennels, and he's showing me where Banks was
24 and Ricky at the time of the attack.

25 CAPTAIN WARBURTON: Okay.

1 (Plaintiff's Exhibit 17, marked for
2 identification.)

3 DR. STONESIFER: Was Ricky on a leash
4 when this happened?

5 THE WITNESS: Ricky, what I understand,
6 was on a leash, he broke free from the gentleman, I'm
7 not sure if he pulled the leash out of his hand or he
8 slipped, I'm not sure how he got loose but he was
9 loose at that point.

10 BY CAPTAIN WARBURTON:

11 Q And can you describe what this picture
12 is?

13 A Yeah. I asked Mr. Clyde to show me
14 where Ricky was when this happened. And Ricky had
15 already walked up the lane to this point, and that's
16 approximately where he was.

17 (Plaintiff's Exhibit 18, marked for
18 identification.)

19 BY CAPTAIN WARBURTON:

20 Q And then Plaintiff's Exhibit Number 19?

21 A That's another view of where it
22 happened.

23 Q Okay.

24 (Plaintiff's Exhibit 19, marked for
25 identification.)

1 BY CAPTAIN WARBURTON:

2 Q And Plaintiff's Exhibit Number 20?

3 A That would be standing up where Ricky
4 was, looking down to the building where Banks was
5 going in.

6 Q And you said Banks was approximately
7 over in this area --

8 A Correct.

9 Q -- and Ricky was up in here?

10 A Correct.

11 Q Okay.

12 (Plaintiff's Exhibit 20, marked for
13 identification.)

14 BY CAPTAIN WARBURTON:

15 Q Did you also get a statement from
16 Mr. Clyde?

17 A Yes, I did.

18 Q Is this the statement?

19 A Yes, it is.

20 Q Is that your signature --

21 A Yes, it is.

22 Q -- at the bottom? And basically what
23 did Mr. Clyde tell you he did when he was at --

24 A He -- okay, Mrs. Purcell was so
25 distraught over her dog, he was just shaking

1 violently. And she just was like paralyzed, she
2 didn't know what to -- I don't know if she didn't know
3 what to do or --

4 Q It was unexpected?

5 A Yes, definitely, because she did not
6 see him coming. From what she told me, she was
7 walking this way, and he came from this way and just
8 picked up the dog. Mr. Clyde came out and tried to
9 separate them, he ended up picking up that ice breaker
10 right there and hitting Ricky with that to try to get
11 him to release the dog. He would not release the dog.

12 Q This is Plaintiff's Exhibit 27, an ice
13 breaker.

14 (Plaintiff's Exhibit 27, marked for
15 identification.)

16 THE WITNESS: But he hit him with the
17 wooden end. He told me that he couldn't get Ricky to
18 release, so his next move was to go in and get a taser
19 that he had. But by the time he came out, I believe
20 the gentleman and Miss McIlvaine were there, and they
21 were able to get the dogs apart. He immediately
22 scooped up Banks and took him into the building
23 because he has a grooming center in there, and he put
24 him in the tub and started washing all the blood off,
25 and realized the severity of the wounds. And they,

1 like I said, they called around and found a vet that
2 would see him immediately and took him in.

3 CAPTAIN WARBURTON: Plaintiff's Exhibit
4 22.

5 (Plaintiff's Exhibit 22, marked for
6 identification.)

7 BY CAPTAIN WARBURTON:

8 Q Did you receive these from Mr. Clyde?

9 A Yes.

10 Q And what is the first page?

11 A It is billing for the couple months
12 that Lady Jane and Ricky were there.

13 Q And were they housed separately or
14 together?

15 A In the beginning, they housed them
16 together, they said that they grew up together, it was
17 a mother and a son. He put the -- he has a couple
18 extra large kennels there that can house two dogs.
19 You know, when he has families go on vacation and
20 stuff, they can bring their dogs in and house them
21 together.

22 He started out housing them together,
23 but his kennel manager, John, told him that they had
24 an incident one day where Ricky became very aggressive
25 with Lady Jane over food, and they were fighting, and

1 he separated them. And after that, he started billing
2 them for separate kennels, which he was doing special
3 for them I guess it's \$10 a night, because it's \$20
4 now for two dogs. And he did tell Miss McIlvaine that
5 she would be paying for two kennels at this point
6 because of, you know, them not being able to be fed
7 together.

8 Q And also there were some vet bills?

9 A Yes. Mr. Clyde, beings that it
10 happened at his establishment, was helping Miss
11 Purcell pay some of the vet bills for Banks.

12 Q Okay. And did you contact the vet
13 where Banks went to?

14 A Yes, I did.

15 Q And did they send you a vet report?

16 A Yes, they did, they sent me a
17 preliminary vet report. And then recently, I had
18 contacted the vet again and asked her for her personal
19 statement as far as how she felt about, you know, the
20 incident, all the things that Banks had gone through,
21 and she did send me her own personal report.

22 Q And is Plaintiff's Exhibit 9 the vet
23 report --

24 A Yes.

25 Q -- of the injuries?

1 A Yes.

2 (Plaintiff's Exhibit 9, marked for
3 identification.)

4 BY CAPTAIN WARBURTON:

5 Q And then Plaintiff's Exhibit 10 is the
6 letter that she wrote --

7 A That she wrote to me yes.

8 Q -- in regards to Banks' injuries?

9 A Yes.

10 (Plaintiff's Exhibit 10, marked for
11 identification.)

12 BY CAPTAIN WARBURTON:

13 Q How did you get possession of Ricky?

14 A We contacted Faithful Friends, their
15 director, Jane Pierantozzi, and said that we were
16 going to take Ricky and, due to the severity of the
17 attacks, we wanted to do a dangerous dog on him. So
18 we went up there the one day to acquire him from them.

19 Q And when you were at Faithful Friends,
20 was he on the property?

21 A No, he was not.

22 Q Did they eventually bring Ricky to you?

23 A They did bring him back eventually,
24 yes.

25 CAPTAIN WARBURTON: Okay, I believe I

1 have no further questions.

2 BY MR. CROWTHER:

3 Q You never saw Banks' wounds, right?

4 A No, I never personally saw them.

5 Q Right. So everything you're talking
6 about from his injuries was from somebody else's
7 observations or records, right?

8 A I just went by the vet report and what
9 the pictures were.

10 Q Right, because you have no personal
11 knowledge about any of the injuries, right?

12 A No, but I was a vet tech for several
13 years.

14 Q My question was you have no personal
15 knowledge about any of the injuries, correct?

16 A I spoke to the owner, so -- and I spoke
17 to Mr. Clyde.

18 Q We'll do it again --

19 A But I did not see them personally, but
20 I do have knowledge of them, yes.

21 Q You did not see them, you did not
22 examine them?

23 A No, but I have knowledge of them, yes,
24 I do.

25 Q Everything you know is from somebody

1 else, correct?

2 A Correct.

3 Q Okay, very good. Now, the records you
4 have at Plaintiff's 9 actually start out before the
5 attack, March 14th, correct?

6 A Well, they sent me everything; I asked
7 them to send me a complete report. That has nothing
8 to do with what the incident says happened to the dog.

9 Q I understand. I'm just saying the
10 first entry says not eating or moving on March 14,
11 2014?

12 A That still has nothing to do with the
13 attack.

14 Q That's still what it says, though,
15 right?

16 A Right. But from how long ago was that?

17 Q Four days.

18 A All right, well --

19 Q I'm glad that you don't think it's
20 important, but we do. Now, on the note on the 18th is
21 about the actual exam and everything going on, right?

22 A Uh-huh. Yes.

23 Q Now, the 20th, it says, "Re-check.
24 Owner says doing better. Moving around better. Owner
25 doesn't want to come in. Owner mentions something

1 about pulling drain tube." That's what it says,
2 correct?

3 A Okay.

4 Q So two days after the incident, owner
5 doesn't want to come in the vet anymore, right?

6 A No, she did want to come in and he
7 relapsed several times and had to have two surgeries.

8 Q The note on the 20th, his owner doesn't
9 want to come in, right? So two days later --

10 A Well, I'm sure the vet left it up to
11 her if he was feeling well, is that she --

12 Q This is a very simple question, ma'am.
13 Two days after the 18th attack, as you described it,
14 the owner did not want to go back to the vet?

15 A I don't think they were planning --

16 Q Is that what it says right here --

17 A That's what it says.

18 Q -- owner doesn't want to come in?

19 A That's right.

20 Q Thank you. Oh, by the way, you didn't
21 actually speak with Faithful Friends before you showed
22 up on that Friday, did you?

23 A No, actually my captain did.

24 Q Right. So when you're talking about
25 what we did, you weren't --

1 A I was with her.

2 Q -- you weren't even on the phone?

3 A I was there with her.

4 Q But you weren't on the phone, were you?

5 A I was right there with her, sir.

6 Q So if someone testifies the whole
7 discussion went somewhere different --

8 A I was sitting right there with her,
9 sir.

10 CAPTAIN WARBURTON: Objection.

11 CHAIRPERSON CAVANAUGH: We're going to
12 talk about the dog attack. We're not here to talk
13 about who said what about who. We're here to talk
14 about the actions of the dogs.

15 THE WITNESS: Thank you.

16 MR. CROWTHER: The voracity of these
17 witnesses is very important. We have one witness say
18 one of the witnesses already lied.

19 CHAIRPERSON CAVANAUGH: We will make
20 our judgement about the voracity.

21 BY CAPTAIN WARBURTON:

22 Q Staff Sergeant Palacio, do we have the
23 full vet report that shows Banks' injuries prior to
24 the attack and after the attack?

25 A Yes, I asked for them to send me the

1 full report of everything the dog's ever been through.
2 He's had lyme disease, he's had several issues. He's
3 a nine-year-old Lhasa, he's had issues. It still has
4 nothing to do with how he was after the attack.

5 Q And did Miss Purcell, did she say that
6 Banks provoked the attack in any way?

7 A No. Banks was not aware of the dog
8 even -- she was unaware of the dog even coming.

9 CAPTAIN WARBURTON: No further
10 questions.

11 THE WITNESS: Okay.

12 CHAIRPERSON CAVANAUGH: Any questions
13 from the Panel?

14 DR. STONESIFER: No.

15 MS. JANNUZZIO: I do not.

16 CAPTAIN WARBURTON: Delaware Animal
17 Care and Control calls Todd Clyde.

18
19 WHEREUPON:

20 TODD CLYDE,
21 having first been duly sworn by the court reporter,
22 thereupon testified upon his oath as follows:

23 BY CAPTAIN WARBURTON:

24 Q Good evening. Did Staff Sergeant
25 Palacio come to your location and take pictures?

1 A Yes.

2 Q Okay. And is this a picture that she
3 had taken when you were there?

4 A Uh-huh.

5 Q Does that show basically where Miss
6 Purcell's vehicle was?

7 A Yes.

8 Q Okay. And looking from this
9 perspective, is that about where Ricky was?

10 A Yeah.

11 Q And over here approximately was where
12 Banks was?

13 A I didn't see Banks get out of the car.
14 When I came out of the kennel, that's about where the
15 incident, where Ricky had Banks.

16 Q And what's the procedure when somebody
17 gets a dog out of your kennel, when they're going to
18 take the dog out?

19 A We bring the dog up and we give it to
20 them.

21 Q Okay. Do you have the dog on your lead
22 when you take it out?

23 A Yeah, we have them on our leads, and
24 the owner puts them on their's.

25 Q So the owner takes their collar and

1 their leash, and puts it around the dog?

2 A Yeah. We never keep collars, we never
3 keep leads.

4 Q Okay. So when Miss McIlvaine was
5 walking Ricky -- or Ricky was being walked outside by
6 her friend, was Ricky on a leash?

7 A Yes.

8 Q Okay. So he was under the control of
9 his owner?

10 A Uh-huh.

11 Q Okay. And then what happened? Were
12 you outside?

13 A No, I was inside. I mean I saw
14 Mrs. Purcell pull up in her car, and pull into the
15 thing. And then I saw him walking down the driveway.
16 And I went into the grooming room which is in the
17 second room in the building, just because I knew it
18 was Banks, he was coming in for grooming, what cage
19 was I going to put Banks in.

20 And then I heard Mrs. Purcell scream
21 out in the parking lot. And I came out, and I saw
22 Ricky had Banks. And just happened it was when we had
23 all that snow, and the ice chipper was right next to
24 the door.

25 Q When you say you saw Ricky had Banks,

1 what do you mean by that?

2 A Ricky had Banks in his mouth, his head
3 in his mouth. So I grabbed the ice chipper and went
4 over and beat -- literally jumped down on the dog and
5 beat him about five or six times --

6 Q Is this the ice chipper you used?

7 A -- with the ice chipper.

8 Q Would you show me how you went?

9 A Okay, say Ricky's there, I went
10 (demonstrating).

11 Q And did he release?

12 A No.

13 Q He did not?

14 A No.

15 Q So then what did you do?

16 A Dealing with pitbulls I have had over
17 the years, we have a taser in the back of the kennel
18 just for incidents like that. We've never had to use
19 it, but I've always told my kennel help if any of them
20 ever get in a fight, do not put your hands in the
21 middle of it, you'll get eaten, use the taser. We've
22 never had to do it, but it's there, but -- and
23 that's -- we couldn't get him, two big men trying to
24 get them apart and it wasn't working. So I ran back
25 to the kennel to get the taser, and by the time I came

1 back out, he had released.

2 Q And were you aware that Ricky was
3 aggressive towards other dogs?

4 A No. We were never told of any
5 incidents before he came in. The only incident we had
6 was sometime in the middle of January, they had a
7 fight over food, Ricky and Lady Jane. They had lived
8 together, we had them in the same cage because we were
9 told mother and son, they have lived their whole life
10 together, there wouldn't be -- there shouldn't be a
11 problem. And we didn't have a problem with them, but
12 we had -- they had the one fight over food, so we
13 separated them and put them in two cages instead of a
14 double run.

15 Q Did you contact Tacia when that
16 incident occurred?

17 A Yeah, we told her we had separated
18 them, that it wasn't really a problem, Ricky got
19 aggressive over food so we put them in side-by-sides.

20 Q Okay. Is this the invoice that you
21 gave to Staff Sergeant Palacio?

22 A Yeah.

23 Q And on here, it shows December 5th is
24 when the dogs went in?

25 A When the dogs came in, December 5th.

1 Q And then March 18th --

2 A Is when they left.

3 Q -- is when they left? Okay. And you
4 did charge for two kennels for the dogs?

5 A Well, we charge by the dog. We charge
6 them \$10, our normal boarding rate is \$20 a night.
7 But we've dealt with rescues before and I always give
8 them a break, I charge them about what it costs me.
9 It costs me about \$10 a night to house a dog, so I
10 just do it for -- I've done it for the Airedale
11 Terrier Club of America, the Irish Terrier Club of
12 America, and probably half a dozen others.

13 Q That's very generous. Is this your
14 statement?

15 A Uh-huh.

16 Q Is this your signature?

17 A Yep.

18 CAPTAIN WARBURTON: Okay, I have no
19 further questions.

20 BY MR. CROWTHER:

21 Q Sir, would it be fair to describe the
22 screaming you heard as sustained?

23 A Yeah.

24 Q It went for a long period of time,
25 didn't it?

Q Yes. What happened?

1 A I told them what had happened --
2 quickly what had happened and I was off to the vet to
3 get Banks stitched up.

4 Q And do you know if Tacia in the vehicle
5 behind you stopped to talk to him?

6 A No, I didn't see it.

7 Q Do you recognize that, sir?

8 A Yeah.

9 Q That's your text messages to Tacia and
10 her's to you, right?

11 A Uh-huh.

12 Q And it says, "Tacia, do you have a
13 rabies certificate on Ricky?" And she said, "Sending
14 now." She wrote, "Todd, is the dog okay?" You wrote,
15 "Dog will be fine stitched up with drain." You wrote
16 that on March 18th, didn't you?

17 A Uh-huh.

18 Q That's what you thought, too, didn't
19 you?

20 A That's what I thought. I mean I
21 figured the vet would stitch it on up, there would be
22 a drain in it for about a month or so, and he would
23 heal.

24 Q These are other messages between you
25 and Miss McIlvaine, correct? A few weeks later in

1 April of 2014?

2 A Yeah.

3 Q And she's saying that she's hearing
4 from other people that you're complaining because you
5 haven't been paid, isn't that right?

6 A No -- well, yeah, somebody --
7 Mrs. Lefthouse called about taking them. And no,
8 actually what happened was somebody called about
9 wanting to bring in two more rescue dogs, and I said
10 no. And they wanted to know why, and I said because I
11 haven't -- between Safe Haven, the other rescue dog I
12 have in the kennel, and these two, I haven't been
13 paid. So I was not doing any more rescue.

14 MR. CROWTHER: Thank you. No further
15 questions.

16 BY CAPTAIN WARBURTON:

17 Q When you were outside with Ricky and
18 Banks, was Ricky on a leash.

19 A No. He went out the door on a leash,
20 but I was told he slipped the leash.

21 Q So when you grabbed him, there was no
22 tether around his neck?

23 A No, nothing.

24 CAPTAIN WARBURTON: No further
25 questions.

1 CHAIRPERSON CAVANAUGH: Does the Panel
2 have questions?

3 (No response.)

4 CHAIRPERSON CAVANAUGH: Thank you.

5 CAPTAIN Warburton: Delaware Animal
6 Control would like to call Miss Paula Purcell.

7
8 WHEREUPON:

9 PAULA MARIE PURCELL,
10 having first been duly sworn by the court reporter,
11 thereupon testified upon her oath as follows:

12 BY CAPTAIN Warburton:

13 Q Hi, Mrs. Purcell. You brought pictures
14 in tonight; would you identify this picture?

15 A It's -- sorry -- it's Banks as a puppy
16 and my lab and collie at -- you know, they were other
17 dogs that I had.

18 Q So he gets along with other dogs?

19 A Yeah. When I brought Banks to get
20 groomed that day, I had my two Golden Retrievers at
21 home and my daughter's two rescue dogs that lived in
22 Philly, I was watching them for two weeks. So, yeah,
23 yeah, he gets along.

24 Q And Exhibit 26?

25 A Just Banks before he was groomed.

1 Q Before he was groomed?

2 A Yeah.

3 Q Okay. How long have you owned Banks?

4 A Nine years.

5 Q And on March 18 when you went to
6 Delmarva Pet Resort, when you got out of the vehicle
7 was Banks on a leash?

8 A Yes.

9 Q And did you see Ricky?

10 A When I pulled in the driveway and
11 parked, the gentleman and the dog had come out of the
12 groomer and were walking up the lane, so I thought he
13 was taking his dog to go to the bathroom. So I just
14 had to go straight across in to be groomed, so that's
15 what we were doing was just going straight across to
16 be groomed. And that dog came from nowhere, I didn't
17 see it, I didn't even -- just next thing I know, my
18 dog was hanging from the dog's mouth.

19 Q So he didn't pause by your leg?

20 A No.

21 Q He didn't bark at all?

22 A No. It was immediate. I mean Banks
23 was just -- he's short, he's 35 pounds, and he's
24 bow-legged and has an underbite and -- he was just
25 dangling from this dog, so I was screaming.

1 And then he ran to try to get his dog,
2 and Todd came out, because we're both pulling, trying
3 to get them apart. And Todd just kept beating him
4 with that dog -- I mean with the stick. And he -- he
5 wouldn't let Banks go, so I really just thought I was
6 watching my dog get killed right in front of me. But
7 he -- I don't know how he got -- but he did let him
8 go, and Todd scooped Banks up and brought him in the
9 back.

10 Q Okay. And then after Todd brought him
11 into the back, what happened then?

12 A I mean I was hysterical, I was
13 traumatized. I was just in the front waiting room,
14 and Todd's trying to deal with Banks and me, and with
15 them, and try to call a vet, and he was doing the best
16 he could under the circumstances. But I -- I was
17 hysterical, I was hysterical. And the people did try
18 to say they were sorry, but I didn't -- I didn't -- my
19 dog was just viciously unprovoked attacked for no
20 reason.

21 Q And when you took him to the vet, how
22 many times have you been to the vet with Banks?

23 A Well, Todd took him initially, I don't
24 even know how I drove home, I was in shock. And I
25 have been to that vet two or three times a week for

1 the last two months; he had the initial surgery, he
2 came home. And, yes, the officer did talk to me two
3 days later, and I was grateful my dog was fricking
4 alive.

5 So that's what you heard, I was
6 grateful that Banks was okay, but we were by no means
7 done with vets. He still had to get staples out, he
8 was on a form of morphine, he was on four different
9 pills, he had a drain. And when he went to get his
10 drain out, the drain -- all the staples were gone, and
11 they had to redo the surgery because it was infected.
12 So I had two solid months of being in and out of the
13 vets, and Banks had a few nights spending the nights
14 there. And they did all that they could. And Banks
15 did have the lyme disease prior, he's an older dog,
16 Banks -- we had to have put Banks down on Saturday.

17 Q I'm sorry.

18 A And, yeah, I mean it wasn't
19 ultimately -- he didn't die from the dog attack, but
20 his whole life was spent on -- I mean his immune
21 system was compromised, he was on drugs for the whole
22 two months.

23 Q So after this, using your words,
24 vicious attack, did Banks ever fully recover?

25 A No.

1 Q He did not?

2 A No.

3 CAPTAIN WARBURTON: I have no further
4 questions. Thank you, ma'am.

5 MR. CROWTHER: I have no questions.

6 CHAIRPERSON CAVANAUGH: Does the Panel
7 have questions?

8 DR. STONESIFER: No.

9 CHAIRPERSON CAVANAUGH: Thank you.

10 MR. HULSE: Delaware Animal Control
11 would like to call Tacia McIlvaine.

12

13 WHEREUPON:

14 TACIA McILVAINE,
15 having first been duly sworn by the court reporter,
16 thereupon testified upon her oath as follows:

17 BY MR. HULSE:

18 Q Tacia, were you aware of any of the
19 attacks that Ricky had been involved in?

20 A March 18th when he attacked Banks.

21 Q You were not aware of the other attack
22 prior in December?

23 A No.

24 Q Were you there present when the attack
25 occurred?

1 A The attack at Delmarva Pet Resort?

2 Q Yes.

3 A I was in the truck when the attack
4 occurred.

5 Q Did you try to get out to help as well?

6 A I did, after I realized what was going
7 on.

8 Q All right. How far were you parked
9 from the incident?

10 A There's a picture of where he showed
11 where Miss Purcell was parked. Okay, right here, I
12 think. On this one, okay, we would have been here or
13 in this area. Sorry.

14 Q All right. Why did he walk all the way
15 down the lane with the dog?

16 A I don't know, I didn't have the dog.

17 Q Was the dog -- did you have a leash for
18 the dog, a collar for the dog?

19 A He did have a leash. Todd had put a
20 collar on it, I guess, because we didn't leave him
21 with a collar. It was a collar from the kennel, and
22 he just said to take it, because I asked him if he
23 wanted his collar back when we were inside.

24 Q So you guys did not put the collar on
25 the dog?

1 A No; it was put on in the kennel when he
2 brought him out.

3 Q All right, but you don't know that for
4 sure because you were weren't inside as well either?

5 A I was in the building when John took
6 Ricky out, I was talking to Mr. Clyde.

7 Q So you were not in the vehicle, you
8 were inside?

9 A When we left, I had gotten in the truck
10 with the other dog, and John was putting the dog into
11 the truck.

12 Q All right. Do you post things for
13 Faithful Friends or for animals that you have, you try
14 to rescue?

15 A I post, I share posts.

16 Q You share posts?

17 A Uh-huh.

18 Q Is this a post that you were doing for
19 Ricky?

20 A Yes.

21 CHAIRPERSON CAVANAUGH: Again, I hope
22 these are relevant to the attack in some way --

23 MR. HULSE: Yes.

24 CHAIRPERSON CAVANAUGH: -- and not
25 human attacks on humans.

1 BY MR. HULSE:

2 Q When you posted this one, what does it
3 say there on for Ricky?

4 A Which part? Seven years old and up to
5 date, neutered male, no other male dogs, prefers
6 laid-back home, sweet and loving, beautiful.

7 Q No other male dogs, why did you put no
8 other male dogs?

9 A That's what his previous owners had
10 indicated to me.

11 Q All right, so you always post dogs that
12 have attacked other dogs and saying they need loving
13 homes and they're beautiful?

14 A Let me see that. You see the date on
15 that, sir?

16 Q Do you see the print date on the paper?

17 A Well, when you print something out,
18 that's generally the day that it's printed out up
19 there.

20 Q Right. So is it still posted that this
21 is a loving dog, great for a new home?

22 A I guess it could be, if it was still
23 there; I didn't -- I don't know exactly on the 18th.

24 Q But was it a good dog for adoption for
25 anybody besides anybody with male dogs?

1 A As far as I knew, yes, as long as there
2 were no other male dogs around.

3 MR. HULSE: Okay. I have no other
4 questions for her.

5 BY MR. CROWTHER:

6 Q Did you ever speak with Mr. Clyde about
7 Ricky and Lady Jane?

8 A Yes.

9 Q Did you inquire about how they were
10 doing?

11 A I did.

12 Q When was the first time you inquired?

13 A I had spoken with him a couple of times
14 in January because of they were going to be spayed and
15 neutered. We had some snow, so appointments were
16 rescheduled. But on the 29th of January,
17 specifically, we spoke.

18 Q And what did he tell you, what did you
19 ask and what did you tell him?

20 A I asked him about the temperament of
21 the dogs, how they were behaving because I wasn't
22 there, I didn't have any interaction really with the
23 dogs. And he said that they were really sweet; there
24 had been an incident of some food aggression when they
25 first came in; he expected it because they appeared to

1 be starving and it was normal.

2 Q When you first came in contact with
3 Ricky and Lady Jane, were they in fact starving?

4 A They were. They were very
5 mal-nourished, their skin condition was bad, it was a
6 bad situation.

7 Q Did Todd ever mention that he was
8 separating the dogs?

9 A No.

10 Q He never mentioned it?

11 A No.

12 Q Did you have any further conversations
13 with him about the dogs?

14 A I spoke with him a few times in
15 between, but on March 18th, we spoke again
16 extensively, we were actually late going up to
17 Faithful Friends because there was an extended
18 conversation.

19 Q Was this before the Banks incident?

20 A Before the incident, yes.

21 Q And what did he tell you about Ricky
22 and Lady Jane then?

23 A He told me the same thing, you know, we
24 discussed the same thing, that there had been some
25 food aggression in the beginning, and that that was

1 it, that they were sweet dogs.

2 Q Did you pass an Animal Control officer
3 on the way out from Delmarva Pet Resort?

4 A We stopped behind the Animal Control
5 officer and Mr. Clyde, and then we stopped and spoke
6 with the Animal Control officer.

7 Q Do you know what his name was?

8 A Officer Holland.

9 Q And did anyone tell Officer Holland
10 what had just transpired?

11 A I believe Mr. Clyde did, because
12 Officer Holland stopped and we stopped. And he said
13 it's no big deal, it's a dog-gone dog bite. He said
14 the worst thing that can happen is Ricky will have a
15 ten-day quarantine. He said go on line to the
16 Department of Agriculture, I think he said, and
17 there's a way to fill out a bite report on line.

18 Q Is that all he said?

19 A That was it. It was no big deal.

20 Q Did he just continue on his way up?

21 A He never even got out of the truck. He
22 just rode past us and we went on up and went to
23 Faithful Friends to take the dogs up.

24 MR. CROWTHER: I don't know how the
25 Panel wishes to proceed. I can do my whole

1 examination of her because I was going to call her as
2 a witness, too.

3 CHAIRPERSON CAVANAUGH: In the interest
4 of time, maybe you could do that.

5 MR. CROWTHER: Okay, I'll try to
6 expedite it a little bit.

7 BY MR. CROWTHER:

8 Q How much contact did you actually have
9 with Ricky and Lady Jane?

10 A Well, I met Ricky and Lady Jane on
11 November 10th when we went to Dewey Beach and pulled
12 the dogs out of the situation. And then I had them at
13 my house on -- from December 4th when they were
14 dropped in the shed until December 5th when I took
15 them to Todd Clyde's at Delmarva Pet Resort.

16 Q On December 4th, we showed you the text
17 message you received; did you receive any other
18 messages from Kathy Hughes on that day?

19 A No.

20 Q Have you ever been told by Kathy Hughes
21 that Ricky or Lady Jane were involved in any
22 aggressive incidents before --

23 A No.

24 Q -- before March 18th?

25 A No.

1 Q Was it ever explained to you that the
2 Lisa St. Clair situation?

3 A No.

4 Q At the time on March 18th when you
5 brought the dogs to Faithful Friends, did you tell
6 them that something had happened?

7 A Faithful Friends?

8 Q Yes.

9 A Yes.

10 Q Did you think it was a serious
11 situation?

12 A No. I mean it didn't seem like it was
13 that serious at the time, just because it was an open
14 gash, and I had texted Mr. Clyde, I had spoken with
15 the vet that they had taken Banks to, and everybody
16 seemed to indicate that everything was going to be
17 fine.

18 Q So you thought it was a cut, be sewed
19 up, and that would be the end of it?

20 A Right.

21 Q Did you have any reason to believe it
22 was anything other than that?

23 A No.

24 Q Now, the Animal Control officer wanted
25 to make a big deal about you putting down not with

1 male dogs; did you have any experience with Ricky not
2 being with male dogs?

3 A No. Actually, I had seen him in the
4 back yard with Kathy Hughes' elderly dog, Simon.

5 Q Well, she said that they weren't even
6 near each other.

7 A Well, that's not true, because I had
8 went up one Sunday, and she said to go ahead and let
9 Ricky loose in the back yard, she had a nice gated
10 back yard. I was concerned because there was a dog
11 door, and I asked her if Simon was in, she said
12 everything was fine.

13 I let Ricky loose, I walked around the
14 back, and Simon was there by the rocks and Ricky was
15 standing over him. And I was concerned obviously, so
16 I walked over to Ricky and I grabbed his collar and
17 just led him away. He was standing over him, he could
18 have done something, he didn't. But he didn't give me
19 any indication, he wasn't growling at the dog, he
20 wasn't doing anything like that.

21 Q Is it possible Miss Hughes didn't even
22 know that that had happened?

23 A It's a good possibility that, but I
24 thought I told her after the fact that Simon was in
25 the back yard and that's why I was bringing Ricky back

1 out.

2 Q Did she ask you if anything happened?

3 A No.

4 Q Did you tell her nothing happened?

5 A I just said it was fine, he, you know,
6 he just came right with me when I directed him away.

7 Q On March 18th during the incident
8 involving Banks, tell us what you witnessed, what you
9 saw.

10 A Well, I had gotten in the vehicle with
11 Lady Jane. John was on one side of the truck, I'm not
12 sure exactly because I was making a phone call to
13 Faithful Friends to let them know that we were going
14 to be late because we were getting held up, talking to
15 Mr. Clyde.

16 Q This is before anything happened?

17 A This is before anything happened.

18 Q Go ahead.

19 A And I turned around to look to see what
20 was taking so long. John had went around to the other
21 side of the truck to put the dog in. And apparently
22 Ricky had slipped his collar and was walking over to
23 another dog. And I didn't see the attack happen so I
24 don't know; I did walk up on it, you know, after the
25 fact. I got off the phone and went out to see what

1 they needed.

2 And Mr. Clyde said go get John, the
3 kennel manager. And I ran into the building, trying
4 to find whoever he was. And it just was a lot of
5 confusion. I went around looking for him, I couldn't
6 find him. Then when I went out, he was coming from
7 like around down the lane.

8 Q When the dogs were separated, did you
9 see Ricky after that?

10 A Yes.

11 Q And how was he?

12 A He seemed fine.

13 Q Was he trying to get back to Banks?

14 A No.

15 Q Was he trying to pull towards Banks?

16 A You're talking about Ricky, correct?

17 Q Yes, was he trying to pull towards
18 Banks?

19 A No. John had ahold of Ricky. I mean
20 he didn't have anything on, he had to, you know, hold
21 him, and he put him in the truck.

22 Q He just held him like this and put him
23 in the truck?

24 A Well, however he held him, I mean he's
25 a big guy.

1 Q Right.

2 MR. CROWTHER: Thank you, no further
3 questions.

4 BY MR. HULSE:

5 Q I have a few more questions. You're
6 saying it wasn't nothing serious that you felt at that
7 point in time?

8 A No. When I saw Banks inside, because
9 Mr. Clyde had shaved the hair from where he had been
10 bitten --

11 Q So you're saying seeing him beating
12 your dog with a stick was nothing serious?

13 A I did not see that.

14 Q You didn't see that right next to your
15 vehicle?

16 A That stick was laying there when I came
17 out. It wasn't near the vehicle, it was near the
18 building. I saw the cattle prod, I didn't see him
19 hitting with that.

20 Q And when you're saying he put the dog
21 into the vehicle, you're saying he was holding him; he
22 wasn't just holding him like a puppy dog, I'm sure he
23 had his arms wrapped around, restraining him and
24 putting him in the vehicle, correct?

25 A He didn't have to restrain him because

1 Ricky wasn't trying to do anything at that point.

2 Q How big is Ricky?

3 A I don't know.

4 Q Approximately?

5 A Maybe 65 pounds.

6 Q 65 pounds? So he just lightly had the
7 dog in his hands, a 60 pound dog?

8 A Yes.

9 Q All right. Now knowing what we know
10 that he's been involved in two different attacks, one
11 male, one female, would you still say he's a great dog
12 for the public to go out and to adopt?

13 A I wouldn't know personally, because I'm
14 only familiar with one incident.

15 Q Right, but you were with Ricky, you
16 had --

17 A He's not a dog apparently that would be
18 doing well with male dogs is the information that I
19 have.

20 Q Right, but what you do know now, you
21 know he has been involved in two attacks --

22 A Well, I don't know that he was involved
23 in two attacks; I know that he was involved in one dog
24 attack.

25 MR. HULSE: No further questions.

1 CHAIRPERSON CAVANAUGH: Excuse me.
2 Wait just one minute.

3 THE WITNESS: Oh, I'm so sorry.

4 CHAIRPERSON CAVANAUGH: Questions from
5 the Panel?

6 MS. JANNUZZIO: I do. Can you tell me
7 on what date Ricky was neutered?

8 THE WITNESS: It was January 29th of
9 2014.

10 MS. JANNUZZIO: Thank you.

11 THE WITNESS: You're welcome. I'm
12 sorry, anything else?

13 DR. STONESIFER: When was it?

14 THE WITNESS: I'm sorry?

15 DR. STONESIFER: When was he neutered?

16 THE WITNESS: January 29th of 2014. We
17 had had some snow, and we went and picked him up from
18 Delmarva Pet Resort.

19 DR. STONESIFER: And who performed the
20 procedure?

21 THE WITNESS: Doctor Popas at I believe
22 it's called Delmarva Pet Medical Center.

23 DR. STONESIFER: Okay.

24 CHAIRPERSON CAVANAUGH: Any other
25 questions?

1 (No response.)

2 CHAIRPERSON CAVANAUGH: Thank you.

3 CAPTAIN WARBURTON: We would like to
4 call John Lathbury.

5
6 WHEREUPON:

7 JONATHAN WADE LATHBURY,
8 having first been duly sworn by the court reporter,
9 thereupon testified upon his oath as follows:

10 BY CAPTAIN WARBURTON:

11 Q Good evening, Mr. Lathbury. Can you
12 state your occupation, please?

13 A I am the current acting manager for
14 Delmarva Pet Resort.

15 Q And what are your duties?

16 A Range from taking care of the dogs to
17 feeding them, watering them, sometimes bathing them.
18 I'm pretty much involved with their life the whole
19 stay at the kennel.

20 Q So when somebody comes to get their dog
21 from Delmarva Pet Resort, what's the normal procedure
22 that you follow?

23 A I ask them to remove the leash that
24 they have on, we put on our slip leads because no way
25 a dog's going to get off the slip lead. And then I

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1 escort them to the back.

2 The same procedure counts as they
3 leave: We take our slip lead, put it on, escort the
4 dog out to them. We tell them go ahead put your leash
5 on, and they walk out.

6 Q So when Miss McIlvaine grabbed Ricky,
7 when you released Ricky to their custody, did you have
8 him on your lead?

9 A No, I wasn't present at the time; I was
10 in the back taking care of the rest of the dogs.

11 Q Okay, do you know who did give Ricky --

12 A My boss.

13 Q Okay, Mr. Clyde did?

14 A Uh-huh.

15 Q And does he normally follow that
16 procedure?

17 A Oh, yes. Four years straight working
18 with him, yeah.

19 CAPTAIN Warburton: Okay, I have no
20 further questions.

21 THE WITNESS: All right, cool.

22 BY MR. CROWTHER:

23 Q Just a real simple question. What if
24 the dog had to leave but didn't have a collar, you
25 wouldn't help out?

1 A Well, yeah, if there's a --

2 MR. CROWTHER: Okay, no further
3 questions.

4 CHAIRPERSON CAVANAUGH: Any questions
5 from the Panel?

6 MS. JANNUZZIO: No.

7 DR. STONESIFER: No.

8 CHAIRPERSON CAVANAUGH: You're excused,
9 thank you.

10 CAPTAIN WARBURTON: We rest.

11 CHAIRPERSON CAVANAUGH: Thank you. If
12 you want to, you may proceed.

13 MR. CROWTHER: Call John Nusbaum.

14 CHAIRPERSON CAVANAUGH: One of our
15 Panelists needs a break.

16 (Whereupon, a short recess was taken.)

17 MR. CROWTHER: I'll call Mr. Nusbaum,
18 John Nusbaum, he's back.

19 WHEREUPON:

20 JOHN W. NUSBAUM,
21 having first been duly sworn by the court reporter,
22 thereupon testified upon his oath as follows:

23 BY MR. CROWTHER:

24 Q I guess by looking at you, we now know
25 how you carry 65 pound dogs, supposedly, right?

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1 A Right.

2 Q Mr. Nusbaum, on March 18th, were you
3 with Tacia at Delmarva Pet Resort?

4 A Yes.

5 Q And did you enter the actual building
6 to pick up Ricky?

7 A Yes.

8 Q Who put the collar on Ricky?

9 A The collar was on, as far as I know.
10 It was on him in the kennel wherever he had him in the
11 back.

12 Q Did you attach a leash?

13 A No.

14 Q Who did?

15 A Todd.

16 Q Did you take the leash from him?

17 A I took the leash.

18 Q Where did you go then?

19 A And I walked out the door. And I seen
20 the lady with her dog, she was pulling in, and I seen
21 right off she was nervous, she's like oh, pitbull. So
22 I tried to walk him -- I never walked down the lane.
23 I walked around the front of my truck which is where
24 Tacia showed we parked. I walked around the long way
25 instead of the driver's side, to the passenger door.

1 Well, I was going to let him in that passenger door
2 but Lady Jane jumped over there, so --

3 Q So Lady Jane was already in the truck?

4 A She was already in the truck.

5 Q Then what did you do?

6 A I walked around to the driver's side
7 and opened the door -- well, I had to walk around and
8 open the door, and I turned my back to him, had the
9 leash, and I felt the leash go limp.

10 Q And what did you see when you turned
11 around?

12 A I seen Ricky, and she was walking her
13 dog like heading towards the door. And I thought I
14 said something, maybe I didn't, I'm pretty sure I did,
15 because it was shocking that -- Ricky is old, his
16 hips, I mean he's a big boy but his whole back hips,
17 he has no back strength, but he just walked, he walked
18 towards her dog.

19 Q Did he run?

20 A At a trot, at a fast trot; he didn't
21 walk slow, he walked at a fast trot. And when he
22 walked over, he bit right ahold of her dog.

23 Q Now, what was the owner doing before
24 Ricky even got to the dog?

25 A She started -- when she seen him

1 coming, she did start screaming.

2 Q So she started screaming before Ricky
3 even got to Banks?

4 A Yes, before he got -- she started to
5 scream.

6 Q What exactly did you see from that
7 point, forward? Tell us what you saw.

8 A Well, I walked over as fast as I could,
9 I have these -- and these are the same boots, I think,
10 I have on, they're slick, and there was ice and snow,
11 I walked over and I took control, got behind Ricky and
12 pulled him up in a Nelson, and I had him here. And I
13 tried to pull his jaws off, it was just me.

14 Q You had your fingers in his mouth?

15 A I put my fingers in his mouth, which
16 you never -- I would never do that. This pitbull --
17 but he wasn't being aggressive like everybody is
18 saying. Yeah, if it was my little dog, I guess he was
19 aggressive, because I felt her pain, I ain't going
20 to -- you know, I felt that.

21 Q Sure. When you say he's not being
22 aggressive, did he shake?

23 A He wasn't shaking. He just bit and
24 would not let go.

25 Q Did he pick the dog up?

1 A I don't -- no, because I had him. I
2 had ahold of him right -- you know, and when it first
3 happened he -- I think when he walked over, he bit and
4 he -- he's a big dog, and he pushed that little dog
5 down and just bit, I mean ...

6 Q Now, there was some rumor in the report
7 saying that he threw the dog, did that happen?

8 A No, he didn't throw the dog.

9 Q Now, we heard the situation involving
10 the giant tool over there; how did -- did you and Todd
11 try to separate the dogs?

12 A I was the only one with the dog.
13 Finally I guess he did hear the scream, he came out,
14 and I had Ricky already, and I kind of told him, I
15 said get a shovel. Because I've had pitbulls before,
16 and I wanted him to take the spade and the flat spot,
17 and you got to bust them as hard as you can like
18 you're hitting a 300 pound man. I'd rather him hit
19 the pitbull, the poodle wouldn't take it --

20 Q Right.

21 A -- obviously, but the pitbulls are
22 hard-headed. He didn't -- he only had an ice scraper,
23 and obviously you couldn't hit him with that end,
24 you know, that it would cut the pitbull and maybe make
25 him even bite the poodle harder. So he whacked him

1 with the handle.

2 And we both had him, I think -- we
3 both -- we tried to get them apart. Not saying he was
4 pulling, but we were trying to get them apart. And we
5 weren't yanking, you know.

6 Q Could you see the bite wound while they
7 were still connected?

8 A It was so stressful, painful watching
9 her scream, I really -- yeah, I could see his tooth in
10 his fur the whole time because that's what I kind --
11 it was his -- one side of his canines were right on
12 that one side where the cut is.

13 Q How did you ultimately separate them?

14 A That kept going, and finally he
15 realized that wasn't working, he was getting ready to
16 hit him with the sharp end, I was like no, no, because
17 if he would have did that, he probably would have bit
18 down harder on the poodle, and that's when he ran in
19 to get the prod.

20 And I was like I'm using all my
21 everything. And I was like, man, he's going to leave
22 me alone, I'm thinking to myself I'm going to have a
23 heart attack, trying to -- he goes in, and by the time
24 he came out, which wasn't long, I seen -- I'm sitting
25 there watching, and I got Ricky, and I had him at this

1 point now and I'm pulling him back, and I'm looking
2 and his tooth was right there where it ready to slip,
3 and when it was, I yanked at this point.

4 Now, Ricky wasn't -- I got him off, the
5 poodle was laying there in shock and pooped itself,
6 the Lhasa Apso, it was a horrible thing, I felt bad
7 for the dog, you know. I don't know what Ricky was
8 thinking, why it happened.

9 And I had to yell -- actually, Tacia is
10 the one who got her dog initially away, I'm pretty
11 sure, because he was just coming back with the prod.
12 And we had them apart, and I had to yell for somebody
13 to get the collar, get the collar because now all I
14 had was his greasy fur, he had been in the kennel.

15 So I'm holding him, and I need to get
16 that collar on him. And at that point I grabbed the
17 collar and gave it a twist so it was tight, and walked
18 him to the car, and tossed him in with one arm because
19 I could pick that dog up with one arm; especially
20 after that, my adrenaline was pumped. And I really
21 felt bad for her, it was horrible; I've had Lhasa
22 Apsos, I've had pitbulls, I've had -- it's just
23 horrible. They're you're children, doesn't matter
24 what kind of dog they are.

25 Q You don't want them bitten at all.

1 A You don't want them bitten at all.

2 Q Now, did you go in and see when Banks'
3 wound was cleaned up by Todd?

4 A Yes.

5 Q Tell us about that.

6 A I walked in, and I knew -- I wanted to
7 say I was sorry to her, but I knew her feelings would
8 be like -- you know, it probably wasn't best. So I
9 kind of walked in and walked past. And Todd had just
10 shaven Banks, and he was sitting there. And Todd had
11 to -- he went out and helped her I think make a phone
12 call, she was really shook up.

13 And Banks, obviously he was shook up.
14 So I sat there and pet him, and told him -- you know,
15 I was talking to him, I said, "I'm sorry, Buddy."
16 Because neither dog was mine, I was just helping and
17 caught in the situation, and tried to keep calm and
18 make the best of it.

19 But Banks was there, you know, it was
20 about a three-inch, it basically -- it wasn't deep, he
21 never got his muscle or neck bone or the dog would
22 have killed him.

23 Q What do you mean it wasn't deep?

24 A It wasn't deep; it was long.

25 CAPTAIN WARBURTON: Objection. You're

1 not a vet.

2 MR. CROWTHER: He personally witnessed
3 the wound.

4 CHAIRPERSON CAVANAUGH: We do have a
5 vet report here.

6 MR. CROWTHER: He personally witnessed
7 the wound so he can describe what he saw.

8 CHAIRPERSON CAVANAUGH: I would rather
9 have the vet's opinion.

10 THE WITNESS: I was just trying to
11 answer.

12 CHAIRPERSON CAVANAUGH: I understand.

13 BY MR. CROWTHER:

14 Q So what exactly did you see?

15 A About a three-inch gash, it looked like
16 someone took a knife and cut the membrane in the skin
17 to where you could see the muscle tissue. And, you
18 know, it wasn't pretty, the poor dog was shaken.

19 Q Was the wound cleaned while you were
20 there?

21 A Todd had -- did a pretty good job, he
22 shaved it and cleaned it up, and I guess he rubbed it
23 with some gauzes and alcohol. Well, he had it pretty
24 clean when I got there because I stayed out and ...

25 Q Was the wound still bleeding when you

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1 got in there?

2 A There was some blood there but it
3 wasn't like -- it wasn't on an artery that I know of.
4 And because of the dog's mouth, you know, they had to
5 tube it, obviously. If a dog bites, you know, it
6 doesn't matter how far, once it breaks your skin,
7 you've got to have a drain in it or you better be
8 taking big strong antibiotics for a while because it's
9 dirty. Even a human mouth's dirty. It's just dirty
10 when you get bit. Ricky's an old dog so his mouth was
11 probably really dirty.

12 Q Did you see Ricky charge Banks to
13 attack him?

14 A Ricky can't really run, he don't have
15 no back legs. He did walk at that dog at a fast pace.
16 I have one, it would attack on him like an NFL pro
17 ball player. It was the wierdest way I've ever seen a
18 dog, a pitbull go after a dog, because he just like he
19 walked real quick and bit. And there wasn't no
20 shaking, and usually a pitbull would have grabbed
21 that, he would have shook it, it would have been dead
22 quick, but it wasn't like that.

23 It was like he just walked over to that
24 dog fast as he could because, like I said, his hips
25 are bad, and he just bit. And it was like the calmest

1 attack for a pitbull, which was lucky for all of us,
2 because I wouldn't have been able to reach in his
3 mouth. Normally I would never have reached in his
4 mouth but when I seen that he was just there, and he
5 just bit, and he wouldn't move. And I was just like,
6 well, the hell with it, let me try. But he was too --
7 I couldn't even budge his jaws, they say it's
8 1300 pounds and that's ...

9 Q Was he growling?

10 A No growling. I think Banks was crying.
11 There wasn't no growling or snarling or, you know,
12 nothing, or I wouldn't have stuck my hands in his
13 mouth. And I stuck them in through the side, too, and
14 this way, and he would have broken my fingers.

15 Q Did you get bit?

16 A No, I didn't get bit. Scratched,
17 clawed. No, Ricky never acted -- like actually when
18 we took him to the vet to get neutered, we walked him
19 by Irish Setters right in the vet, and they had cats
20 in there.

21 Q Anything happen?

22 A Nothing.

23 Q Did he try to pull towards them, lunge
24 towards them?

25 A He never tried to pull. But, you know,

1 that breed, if you ain't an alpha, you got to be more
2 alpha than that dog and kind of let them know that.
3 Which I did let him know that with the way I handled.
4 I handled a bunch this past summer for Safe Haven, All
5 Aboard, and you can feel out the ones that like, you
6 know what? You don't want to walk them even near
7 another dog, even know though I could out-power them,
8 you don't want to do it, but Ricky wasn't like that.

9 MR. CROWTHER: No further questions.

10 BY CAPTAIN WARBURTON:

11 Q Good evening. When you were taking
12 Ricky out of Delmarva Pet Resort, was he jumpy and
13 active --

14 A No.

15 Q -- or was he just walking?

16 A Docile. He was docile.

17 Q Docile?

18 A I mean he's -- he seems old to me,
19 especially his hips seem arthritic, very skinny.
20 Maybe it was from being locked in the kennel for
21 months.

22 Q Sure. So when he saw Banks, how did he
23 slip his collar?

24 A Well, see, that's the thing. When I
25 walked around to the -- I walked around the front of

1 the truck -- can I do this? I walked around, I opened
2 the door. When I opened this door, I walked around
3 and went like this. The only thing I felt was as I
4 went to pull and there was slack, and I turned around,
5 and he's from there to the bench, and he was walking
6 fast to her dog, that way.

7 Q So he was pursuing the dog?

8 A Yeah, and I -- I think I tried to yell,
9 but I tried to go as quick as I could but it was ice,
10 and these are nothing --

11 Q Oh, yeah, I see that.

12 A -- but slick, so ...

13 Q So what you saw is when Ricky slipped
14 his collar, he didn't go to you, he didn't -- did he
15 jump in the truck?

16 A No.

17 Q No. So he went straight --

18 A When he slipped it --

19 Q So he went straight to Banks?

20 A -- he went straight to Banks.

21 Q So you would call that pursuing?

22 A Yeah, if that's what you want to say,
23 yes, it was pursuing.

24 Q Did he bark or did he do --

25 A Wasn't no bark, wasn't no growl.

1 Q And you said this was the calmest
2 attack you ever saw?

3 A For a pitbull. If you have been around
4 pitbulls --

5 Q So he was stealthy, he knew what he was
6 doing?

7 A In all reality, if a pitbull would bite
8 a Lhasa Apso, usually one bite, one shake, and you're
9 burying the Lhasa Apso, or a cat.

10 Q So Ricky knew he was pursuing that dog
11 and he knew --

12 A He might have been. Lady Jane, you
13 know, I thought of Lady Jane was right about where
14 Banks walked to when I first brought her out, and
15 maybe it was something like that. But I mean he -- if
16 you want to say pursue, okay. He walked to it, is how
17 I'm saying. He didn't pursue it like an attack. Yes,
18 once he got it --

19 Q Well, if he was walking towards the
20 dog, then he is pursuing?

21 A Yeah, he walked right to that. He
22 wasn't going nowhere else, he walked right to Banks
23 and bit and held.

24 Q So you would call that an unprovoked
25 attack?

1 A Yeah.

2 Q Yes?

3 A If you want to say.

4 Q Yes. When you were behind Ricky
5 picking him up, were you able to see Banks or were you
6 focusing more on Ricky's back?

7 A No, I could see him but I was focusing
8 on Banks more than Ricky, trying to get that tooth
9 to -- get it out of his fur, you know.

10 Q Okay, so he had a good hold of him?

11 A Oh, yeah, I had a good hold.

12 Q No, Ricky had a good hold of Banks in
13 his mouth?

14 A Yeah, he had a hold of Banks with
15 actually the one side of his canines is where he broke
16 through the skin, that's the one I was working on.
17 Once I seen it was there, I gave it a little -- just a
18 tight jerk, and I got him away, and I needed help, no
19 one was around.

20 Q So that was just the calmest attack you
21 ever saw?

22 A It sure was.

23 CAPTAIN WARBURTON: No further
24 questions.

25 THE WITNESS: Okay.

1 CHAIRPERSON CAVANAUGH: Does the Panel
2 have questions?

3 (No response.)

4 CHAIRPERSON CAVANAUGH: You're excused,
5 thank you.

6 THE WITNESS: You're welcome.

7 MR. CROWTHER: Call Jane Pierantozzi.

8 CAPTAIN WARBURTON: We object. Miss
9 Pierantozzi did not see any of the attacks and thereby
10 cannot provide any witness testimony to the attacks.

11 CHAIRPERSON CAVANAUGH: So can you
12 please make sure that this testimony is about the
13 attacks involved with Ricky and Banks?

14 MR. CROWTHER: It's about the dog.
15 This is a dangerous dog panel.

16 CHAIRPERSON CAVANAUGH: We're talking
17 about the specific attacks of Ricky on dogs; if that's
18 what this is about, okay.

19 MR. CROWTHER: Are you saying I can't
20 ask my witness questions about the dog?

21 CHAIRPERSON CAVANAUGH: If they're
22 about Ricky attacking the dogs, you can ask her
23 questions.

24 MR. CROWTHER: But what if Ricky didn't
25 attack the dogs?

1 CHAIRPERSON CAVANAUGH: I have heard
2 many, many witnesses say that they witnessed a dog
3 attack of Ricky on other dogs.
4

5 WHEREUPON:

6 JANE PIERANTOZZI,
7 having first been duly sworn by the court reporter,
8 thereupon testified upon her oath as follows:

9 BY MR. CROWTHER:

10 Q When were you first contacted about
11 getting Ricky and Lady Jane?

12 A I think it was about early December
13 when Lynn Lofthouse called me and said that there were
14 two dogs that were homeless and in bad conditions, and
15 that people had pitched in and were boarding them at a
16 boarding facility in Sussex and they wanted to get
17 them into a shelter for adoption and to get them in
18 better condition, she was worried about the stress and
19 the conditions there.

20 I told her at the time we didn't have
21 room because we were renovating, and that we basically
22 were moving many of our dogs out into foster care or
23 adoption while we renovated our kennels, but when we
24 had room and completed, we would try to bring them in.

25 I asked her if they were nice dogs, she

1 said that they were nice dogs, they lived -- there
2 were three dogs in the home but one I think was
3 staying with the family, and these two dogs she said
4 had been in carriers and were in poor conditions.

5 So then she called a couple more times
6 maybe while we were renovating, and finally I said we
7 will call you when we're done, and I let her know we
8 were done and we had room in March.

9 Q And was Ricky and Lady Jane planning on
10 coming there on March 18th?

11 A Yes, they were planning on coming on
12 March 18th. I wasn't sure exactly who was bringing
13 them, but one of the rescue individuals, it ended up
14 being Tacia ended up bringing them there. And we had
15 a kennel for both of the dogs prepared for them.

16 Q Were you told that they lived together?

17 A Yes, and we prepared a kennel for them
18 to live together, and they did live together at
19 Faithful Friends.

20 Q Now, the first time you heard from
21 Animal Control was when?

22 A Let's see. I heard from Animal Control
23 when Sherry called me -- well, Sherry called me, left
24 me a message, then she called Lou; it was on 4/11, I
25 believe or that's when I picked up the message. And

1 her message to me was I could call back on Monday
2 because it was a Friday. Lou had spoke to her and she
3 wanted to specifically speak with me, and she had
4 concerns about Ricky but we didn't know the specifics
5 at that time.

6 Q Did you speak to her on that Monday?

7 A Yes, I did.

8 Q So you did not know anything about
9 these supposed incidents in December or November or
10 whenever they claimed to have occurred?

11 A No. Lou had said that Tacia mentioned
12 there was an incident with another dog, that it was
13 minor, and that was really all we knew. And on the
14 surrender forms, she listed that they were not good
15 with dogs or kids or cats, so we put them on the
16 website that way to start until we got to know them.

17 Q Now, when you put dogs on your website,
18 does that mean they're ready for adoption?

19 A No; we usually put them up there within
20 the first couple days to a week. And then if we don't
21 know their behavior, we may put still learning about
22 them or something like that.

23 MR. CROWTHER: No further questions.

24 THE WITNESS: Okay.

1 BY MR. HULSE:

2 Q Just a few questions. So you didn't
3 know these animals when they were first brought to
4 your facility?

5 A No.

6 Q Did they show any signs of aggression
7 while they were at your facility?

8 A No, they didn't. I mean they were very
9 nice; nice, easy-going dogs. They did well in the
10 kennel while they were with us. We didn't have any
11 food fight incidences like I think Todd mentioned; we
12 didn't have any of that happen. They were just kind
13 of calm, mild-mannered dogs.

14 Q Then why is it Ricky was not at your
15 facility when we went to get Ricky?

16 A Because we take the dogs on walks. The
17 dogs go on walks three times a day in our kennel, and
18 he was on his afternoon walk.

19 Q So he didn't come out from a vehicle;
20 he was on the premises the whole time?

21 A No, he was on the walk with someone
22 else, but Lou went to get him to make sure he came
23 back when the officer wanted him back.

24 Q So he was out of your facility, he was
25 gone from your facility?

1 A Right, right.

2 Q So you don't walk your dogs on your
3 facility?

4 A We don't have -- our property is on
5 Germay Drive, so we have to walk them at the local
6 park, or up and down Germay Drive, in the
7 neighborhood, so they're walked in the area.

8 Q Okay. Now that you know these dogs
9 have attacked, you have heard testimony from witnesses
10 that have been there, including the person that helped
11 I guess with the dog bring him to your facility, do
12 you think these are great dogs to put out in the --

13 A I think --

14 Q -- public, Ricky?

15 A I think right now, Lady Jane's in a
16 foster home, she's doing good. I think knowing what
17 we know about Ricky is that we would reassess him with
18 dogs, and we would have a behavior trainer that we
19 work with work with him more, and go from there,
20 reassess him and go from there.

21 Q So you don't believe Ricky to be an
22 endangerment right now to the public?

23 A Obviously he can't be off leash and be
24 around other dogs.

25 Q But right now, is he a danger to the

1 public?

2 A Not while he's on a leash. In the
3 shelter, he's fine; on a leash, fine. He walked by
4 other dogs, showed no aggression. He didn't even act
5 reactive in the kennel walking by other dogs. So I
6 would say we would work with him with a trainer and
7 reassess him.

8 Q So if you're saying you have to work
9 with him, you're saying that he's not ready to go out
10 into the public?

11 A Some of the dogs in our care can be in
12 rehabilitation or training before they get adopted.

13 Q I understand that he's been in your
14 care, correct?

15 A Right.

16 Q But you're saying right now, he needs
17 to be reassessed?

18 A I would have someone reassess him,
19 knowing what we know, and have a trainer behaviorist
20 work with him with other dogs first before we put him
21 back out in the public.

22 MR. HULSE: Okay, no further questions.

23 THE WITNESS: Okay, sure.

24 CHAIRPERSON CAVANAUGH: Does the Panel
25 have questions?

(No response.)

CHAIRPERSON CAVANAUGH: Thank you,
Jane.

MR. CROWTHER: Call Lou Henderson.

WHEREUPON:

LOUIS HENDERSON,
having first been duly sworn by the court reporter,
thereupon testified upon his oath as follows:

BY MR. CROWTHER:

Q Mr. Henderson, what do you do, or
what --

A I'm the dog department manager at
Faithful Friends.

Q Are you familiar with Ricky?

A Yes.

Q Did you have contact with Ricky from
March 18th to the time that he was taken away by
Animal Control?

A On a daily basis.

Q How much time did you spend with Ricky?

A Every day, I seen him. Some days, I
would walk him. Some days, just interact through the
kennel.

Q How was he when you walked him through

1 the kennels?

2 A He walked through fine.

3 Q Did he lunge at cages?

4 A No.

5 Q Did he try to go after a dog?

6 A No. I walked him through with his mom
7 usually.

8 Q Did he exhibit any aggressive behaviors
9 in your presence?

10 A Not that I ever saw.

11 Q And you had daily contact?

12 A Yes.

13 Q Let's talk about the day that Animal
14 Control came; you had Ricky and Lady Jane out for
15 walks?

16 A Yes.

17 Q Now, when you came back, you were told
18 that Animal Control was going to take him, right?

19 A Yes.

20 Q And did you come by another dog on your
21 way back towards the Animal Control vehicle?

22 A I was taking him in the shelter, yeah.

23 Q Tell us what happened there. Well, I
24 should probably say what didn't happen? How close
25 were you to that other dog?

1 A Probably over to by them flag poles, I
2 would say.

3 Q Did Ricky pull?

4 A No.

5 Q Did Ricky try to lunge towards that
6 dog?

7 A No.

8 Q Did he make any aggressive action
9 towards that dog at all?

10 A No.

11 Q Did he just follow you?

12 A I walked him right in the front door
13 into the -- yes. And we have cats up there, too.

14 Q Now, I know that you put him in the
15 Animal Control truck.

16 A Uh-huh.

17 Q Before he got in the Animal Control
18 truck, how was he around the group of people that were
19 standing there?

20 A He was fine. We took pictures of him
21 and everything like that.

22 Q Was he being pet?

23 A Yes.

24 Q Was he just sitting there?

25 A He was just sitting there, calm as can

1 be.

2 Q Did he exhibit any aggressive behavior
3 at all?

4 A No.

5 Q When you picked him up and put him in
6 the back of the small cage in the back of the truck,
7 did he try to get back out?

8 A No.

9 Q Did he act in any aggressive way then?

10 A No.

11 Q Did he bark?

12 A No. I never heard him bark, actually.

13 Q Now, you had to let him back out of it
14 to have him checked by the vet, right?

15 A Yes.

16 Q Did he lunge out of his cage?

17 A No. I had to help him down.

18 Q And did you bring him back out later
19 on?

20 A Yes.

21 Q Was it about the same old thing --

22 A Yes.

23 Q -- acting calm?

24 A Fine.

25 MR. HULSE: Basically you're saying the

1 animal showed no sign of aggression, the question you
2 already asked. Is there anything else besides the
3 aggression of the dog questioning?

4 CHAIRPERSON CAVANAUGH: You're out of
5 order.

6 DR. STONESIFER: You had your two
7 cents, let him have his two.

8 MR. HULSE: Sorry.

9 BY MR. CROWTHER:

10 Q How many dogs does Ricky have to pass
11 from where he was in Faithful Friends to where he goes
12 out for a walk?

13 A At least 10 to 12, I would say.

14 Q And do those dogs change every once in
15 a while?

16 A All the time.

17 Q And never a sign of aggression?

18 A Not once.

19 MR. CROWTHER: No further questions.

20 BY MR. HULSE:

21 Q Were either these two dogs present when
22 you walked by with Ricky?

23 A No.

24 MR. HULSE: No further questions.

25 CHAIRPERSON CAVANAUGH: Questions from

1 the Panel?

2 (No response.)

3 CHAIRPERSON CAVANAUGH: Thank you.

4 MR. CROWTHER: No further witnesses.

5 CHAIRPERSON CAVANAUGH: Thank you.

6 Now we're going to have closing
7 statements by Animal Control, and closing statements
8 by the dog's owner.

9 CAPTAIN WARBURTON: Tonight, Panel
10 members, ladies and gentlemen, you have heard
11 eyewitness testimony of two separate incidents
12 involving Ricky and how each of those facts were
13 supported by evidence, not only witness testimony, but
14 statements, vet records, and pictures.

15 The facts that Delaware Animal Care and
16 Control has proven are it's a fact that Ricky pursued
17 and attacked a senior lab who was on her owner's
18 property, unprovoked. It's a fact that Ricky pursued
19 and attacked a senior Lhasa Apso who had merely walked
20 past him. It's a fact that Ricky has inflicted
21 serious physical injury upon a domestic animal in the
22 immediate control of its owner.

23 Through all these facts, there's only
24 one conclusion, and that conclusion the Dog Panel can
25 make is that Ricky is a dangerous animal and should be

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1 found dangerous as per Section 925. Thank you.

2 MR. CROWTHER: Animal Control has
3 thrown around words and phrases as if they don't have
4 any meaning, but in this statute they have actual
5 definitions. So we should probably look at those
6 definitions to see whether or not they have actually
7 established the proof by a preponderance of the
8 evidence that's necessary, because a dog bite isn't
9 enough.

10 It's not a dog bites another dog and
11 therefore they're either potentially dangerous or
12 dangerous; that's not the standard. If that were the
13 standard, every dog park would be the subject of about
14 three dog bite complaints a day. They bite all the
15 time. But that's not what this Panel is supposed to
16 look at. Let's take a look at what the definitions
17 actually say, and let's compare that to what the
18 evidence that's actually allowed here shows.

19 In order to establish a dangerous dog,
20 the statute is pretty clear; it has to have found that
21 a dog killed or inflicted serious physical injury upon
22 a domestic animal. Serious physical injury is what
23 they keep saying, but they actually haven't proven it
24 and they have the burden of proof.

25 Now, the first rule is this Panel

1 cannot rely upon hearsay evidence for that
2 determination. There is no testimony, and the medical
3 records are not allowed because they're hearsay. So
4 this Panel cannot --

5 CHAIRPERSON CAVANAUGH: It can. We can
6 consider hearsay.

7 MR. CROWTHER: Not to make the
8 determination because they don't establish an element,
9 there's no evidence of an element of an injury at all.
10 Now, serious physical injury is actually a defined
11 term. Now, remember, the records show that Banks was
12 okay two days afterwards. The records show and the
13 testimony was that it was no big deal. It was all
14 going to be done -- you saw Todd's text message,
15 stitches and a drain and he'll be fine. That's what
16 he said, he saw the injury; stitches and a drain and
17 he'll be fine.

18 Just because the dog itself doesn't
19 respond well to treatment doesn't mean the injury
20 itself was serious. You can get a cut and get MRSA;
21 it doesn't mean the cut was serious, it means the
22 results later on were serious because you got
23 something else. If they took the drain out and they
24 shouldn't have, that could be a problem, that could
25 create a worse injury. If it wasn't done correctly or

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1 cleaned correctly the first time, that could create a
2 worse injury.

3 The question is whether the injury
4 inflicted by the dog was serious, not whether the
5 treatment was extensive. Because here, there's a
6 little bit of a contradiction between what happened
7 originally, what was -- what people were saying about
8 the injury originally. Every dog bite is going to
9 result in a laceration of some sort; does that mean
10 every dog bite satisfies the criteria for serious
11 injury? The answer is no.

12 Serious physical injury shall be
13 physical injury which creates a substantial risk of
14 death or which causes serious and prolonged
15 disfigurement, prolonged impairment of health, or
16 prolonged loss or impairment of the function of any
17 bodily organ. That's not the case here. It simply
18 isn't the case here.

19 What we have is a laceration. There's
20 no organ damage, no impairment or disfigurement; it's
21 a laceration. It is what every dog bite results in,
22 unless this Panel's going to declare every single dog
23 potentially dangerous or dangerous that's involved in
24 a dog bite when there's a puncture or laceration.
25 That's not what the definition means or what the

1 legislation intended it to mean, that's why it's
2 defined in particular. The Panel has no evidence to
3 support a finding of a dangerous dog because it does
4 not meet the criteria of the statute.

5 Now, potentially dangerous dog is
6 slightly different. It almost overlaps where the
7 Panel could make a decision even on a dangerous dog
8 that's only potentially dangerous, but it does
9 overlap. And the provision that's applicable is
10 attacked or inflicted serious physical injury upon a
11 domestic animal, provided the domestic animal is on
12 the property of the owner or in the control of its
13 owner.

14 Now, the word attack is defined by the
15 Code. And that's important because attack isn't just
16 what we say is an attack. Because any time a dog
17 bites other dog, it's an attack. Under general
18 vernacular or general terms, any behavior that results
19 in a bite is an attack. But that's not what the
20 legislature says.

21 The legislature says that an attack
22 shall be the deliberate action of a dog whether or not
23 in response to a command by its owner to bite, seize
24 with its teeth or pursue any human being or domestic
25 animal with the obvious intent to kill, wound, injure

1 or otherwise harm the human being or domestic animal.
2 Now, are we to presuppose that a dog knows that biting
3 is going to harm an animal, or is that just a dog's
4 instinctive reaction?

5 Remember, the evidence today shows that
6 Ricky bit; didn't shake, didn't do anything else but
7 hold. And in the context, the owner was screaming
8 before he even got there. What impact did that have
9 on his behavior? Did he think she was being harmed
10 and he was protecting her? We don't know, we don't
11 speak dog. But she was screaming before Banks even
12 got bit.

13 Attack doesn't mean a bite. And this
14 Panel needs to be very careful, because if you say
15 that a dog is potentially dangerous because it
16 attacked because that's a bite, you're going to be
17 having a lot of these hearings, because dog bites
18 occur all the time in the public, and the vast
19 majority of those dogs are not remotely dangerous.
20 But dogs bite; that's how they communicate in ways.

21 This dog, it's interesting that the
22 incidents involving earlier than March only came to
23 light in April. And in between, no one heard a peep
24 about these. Nothing. Interestingly, there's no
25 evidence of an injury there, none. There is not a

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1 single bit of evidence of anything leading to either
2 the injury or serious physical injury status of the
3 statute, not one piece of evidence. So even if the
4 bite occurred, there is no non-hearsay evidence in the
5 record, none.

6 While we certainly have concerns about
7 Ricky, and I think you have a concern about every new
8 dog that enters your facility, that's why you assess
9 them and draw up plans for them. You just don't adopt
10 them out to anybody you want; you have to work with
11 dogs, that's what Faithful Friends does. They will of
12 course assess Ricky and they will have their behavior
13 people on staff who do that, and they'll have people
14 who work with him to the extent he has any issues and
15 to the extent he's available and ready for adoption,
16 which may or may not ever be a time. But when he is,
17 he will be placed in an appropriate home.

18 You heard some discussion about Lady
19 Jane, but you also heard Jane talk about Lady Jane
20 being in a foster home and doing just fine. She's
21 fine. But she was aggressive, too, according to the
22 testimony of the witnesses who witnessed these
23 attacks. She's doing just fine.

24 The statute's here for a reason, it has
25 its definitions for a reason, and it's not just

1 throw-around phrases and words that they don't mean
2 anything. They have the burden of proof by competent
3 evidence; they simply haven't met it.

4 So to the extent that this Panel
5 disagrees, and I hope it doesn't, but if it should,
6 the findings should be a potentially dangerous dog,
7 and then the safeguards that go with that would be
8 automatically triggered. But there is no way that the
9 evidence supports a dangerous dog finding, not even
10 remotely. Thank you.

11 CHAIRPERSON CAVANAUGH: The Panel is
12 going to go into Executive Session to make our
13 determination and we will be back shortly.

14 (Following Deliberations in Executive
15 Session, the hearing concluded as follows:)

16 CHAIRPERSON CAVANAUGH: Dear Faithful
17 Friends Animal Society, as noted in our opening
18 statement, the Delaware Code Title 9, Chapter 9
19 Subchapter 2, Subsection 925 states that a dog who has
20 inflicted physical injury upon a human or domestic
21 animal, killed a human or domestic animal, pursued a
22 person in an apparent attitude of attack and/or who is
23 used to facilitate animal cruelty or animal fighting is
24 in violation of this code and is a dangerous or
25 potentially dangerous dog.

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1 According to Code, such a dog must be
2 seized by Animal Care and Control agency and impounded
3 until a final decision is determined. The owner of
4 the seized and impounded dog may abide by the findings
5 and conclusions of the Animal Control Officer as per
6 subsection 925(c) of this code. If the owner
7 disagrees with the conclusion, a hearing before the
8 Dog Control Panel may be requested to present evidence
9 as to why their dog's actions and behavior for which
10 it was seized should not be considered dangerous or
11 potentially dangerous as defined by this Code.

12 Your dog, Ricky, described as a black
13 and white American pitbull terrier, was just seized
14 and impounded on April 18, 2014 due to an incident
15 which took place on December 4, 2013 at 24500
16 Hollyville Road, Millsboro, Delaware, and due to an
17 incident which took place on March 18, 2014 at
18 Delmarva Pet Resort, 3602 Polly Branch Road,
19 Selbyville, Delaware.

20 Ricky, as described above, was seized
21 and impounded in apparent violation of this Code for
22 the following alleged actions: Ricky attacked and
23 injured a dog on the property of its owner; and in the
24 second incident, Ricky attacked and injured a domestic
25 animal that was under the immediate control of its

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1 photographs, and internet postings by both the Animal
2 Care and Control Agency and the owner of the seized
3 dog.

4 In the first incident, the Panel found
5 based on the evidence presented that Ricky did attack
6 and inflict serious physical injury upon a domestic
7 animal on the property of its owner; and in the second
8 incident, based on the evidence presented, that Ricky
9 did attack and inflicted serious physical injury upon
10 a domestic animal that was under the immediate control
11 of its owner.

12 The findings of the Dog Control Panel
13 Hearing: Based on the evidence and testimony provided
14 to this Panel during this hearing held today under
15 Delaware Code Title 9, Chapter 9, Subchapter 2, the
16 Delaware Dog Control Panel finds Ricky, owned by
17 Faithful Friends Animal Society, to be in violation of
18 Subsection 925 or 926 and has been found potentially
19 dangerous.

20 The final order of the Dog Control
21 Panel is that the dog is potentially dangerous and the
22 owner shall comply with the requirements set forth in
23 Title 9, Chapter 9, Subsection 926(b) one through
24 three for keeping or maintaining such a dog.

25 And that concludes our hearing for this

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1 evening.

2 - - - - -

3 C E R T I F I C A T E

4
5 STATE OF DELAWARE)

6)

7 KENT COUNTY)

8
9 I, Pamela C. Herrmann, Registered
10 Professional Reporter and Notary Public, do hereby
11 certify the foregoing pages were taken before me at
12 the time and place indicated herein; that said
13 witnesses were by me duly sworn; that the testimony
14 was stenographically reported by me and thereafter
15 reduced to typewriting under my personal supervision;
16 that I am neither of counsel nor kin to parties in
17 said action nor interested in the outcome thereof.

18 WITNESS my hand this ____day of

19 _____, 2014.

20
21 _____
22 Pamela C. Herrmann
23 Registered Professional Reporter
24 and Notary Public

25 Certificate Number: 128-PS

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